

devote their careers to improving public health and our environment. I also commit, if confirmed, to follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

28. Mr. Pruitt, when Congress passed our bedrock environmental laws, we directed EPA to periodically review and update the federal minimum health protection standards based on the best available scientific evidence. Do you agree that these federal minimum standards must be based on the best available science?

I agree that EPA regulatory actions must be based on the best available science in accordance with the law. If confirmed, I commit to faithfully execute the law as enacted by Congress.

29. Mr. Pruitt, conflicts of interest threaten the integrity of science and public trust in the agency's scientific determinations. Scientists are not immune from having their work and conclusions influenced by their financial interests. Allowing scientists with conflicts of interest to serve as peer reviewers is contrary to widely accepted scientific integrity practices, including those of the National Academies of Sciences, the National Institutes of Health, and other scientific bodies. Industry funded scientists who may have unique expertise can be invited to present information to peer reviewers or an advisory committee, but should not actually serve as a reviewer or member of the committee. Can you explain what steps you would take as Administrator to ensure that scientists with financial conflicts of interest do not threaten the independent peer review process at EPA?

Independent peer review is critical to ensuring the scientific integrity of EPA actions. If confirmed, it will be my privilege to work with EPA's scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to making a healthier and cleaner environment. I commit, if confirmed, to follow applicable legal authorities regarding conflicts of interests in the scientific peer review process.

30. Mr. Pruitt, do you agree that for scientific research to be credible, it must be subject to objective, independent peer review before it is published and remain subject to scrutiny after it is published?

Independent peer review is critical to ensuring the integrity of scientific research. If confirmed, it will be my privilege to work with EPA's scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to making a healthier and cleaner

environment. I commit, if confirmed, to follow applicable legal authorities regarding the peer review process for scientific research.

31. Mr. Pruitt, do you agree that for scientific research to be credible, scientists must disclose all sources of funding for their research?

Credible scientific research is critical to the EPA's mission and, if confirmed, I commit to follow applicable legal authorities regarding scientific research.

32. In the 1970 and 1990 Clean Air Act Amendments, Congress delayed older coal power plants air control requirements because Congress thought that most of the old plants would be shuttered in the decade after the legislation passed. Congress thought there was no need to invest in new technologies at these old, dying plants. Did many of these coal plants actually retire? Do you know the average age of our coal fleet?

I understand that the U.S. Energy Information Administration's Electric Power Annual 2015 report released in November 2016 indicated that between 2005 and 2015 more than one-third of U.S. coal-fired power plants retired and the remaining fleet has an average age of 38 years.

33. Do you know what the role the price of natural gas plays in industry decisions to retire coal plants and fuel switch to natural gas?

I am aware that market conditions, such as the reduced price of natural gas, and costly environmental regulations have been causing coal-fired power plants to prematurely shut-down or convert to natural gas.

34. In your cases against the EPA's Mercury and Air Toxics Rule, who served as your scientific advisor for the case?

Oklahoma's petition to review the Mercury and Air Toxics Rule was a legal challenge brought on the administrative record and argued that EPA acted contrary to law and arbitrarily and capriciously by not considering the costs of regulation in determining whether it was necessary and appropriate to regulate mercury from fossil fuel power plants within the meaning of Section 112(n). The Supreme Court ultimately agreed with Oklahoma's argument that EPA failed to act in accordance with the rule of law when it ignored costs in its determination and remanded the matter to the D.C. Circuit.

35. Mr. Pruitt, ten percent of American women have dangerous levels of mercury in their bodies. But recent data shows that since the United States started cleaning up emissions from coal power plants, not only has mercury pollution in the North Atlantic fallen dramatically, so has the concentration of mercury in Atlantic fisheries. Mercury in Atlantic bluefin tuna is down 19% in only eight years. Given this resounding confirmation that regulation works, how firmly can you assure us that if you are confirmed, EPA's recent successful crackdown on all sources of mercury emissions, including coal power plants will accelerate, rather than pulling back?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

36. As you may remember, we had three exchanges over the issue of whether EPA should regulate toxic air emissions, including mercury, from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that again addresses regulation of power plant mercury and other toxic air emissions under Section 112. Below is a direct quote from our second exchange, when I asked you directly about regulating power plant toxic air emissions:

"Senator, I actually have not stated that I believe the EPA should not move forward on regulating mercury or adopting rulemaking in that regard. Our challenge was with regard to the process that was used in that case and how it was not complicit with statutes as defined by congress. So there is not a statement or belief that I have that mercury is something that shouldn't be regulated under section 112 as a hazardous air pollution. A HAP."

These statements conflict directly with the language in the brief that you filed on June 2012 in *White Stallion Energy, et al. V EPA*: which says: "Finally, the record does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas haps pose public health hazards."

These statements also conflict directly with language in the brief in the pending case that you filed April 25, 2016 with Murray Energy Corporation, et al v EPA: "EPA cannot properly conclude that it is "appropriate and necessary to regulate HAPs under Section 112."

These written statements quite clearly directly contradict your statements before our committee. Which statement is false, the verbal before our committee or the legal documents you filed pending in court? If confirmed, will you recuse yourself from any involvement in questions or cases related to regulating air toxic emission from power plants under Section 112(d) of the Clean Air Act?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. That challenge was made by Oklahoma on the specific administrative record before the court in that matter and all statements regarding the sufficiency of regulation in that case relate only to the material in the record before the Agency. If I am confirmed as Administrator, I will apply the Clean Air Act faithfully in all matters before me and will follow the advice of the EPA Ethics Counsel in determining any recusals.

37. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. As you may remember, I specifically asked you at the end of the hearing:

"Based on your earlier statements, that if confirmed we can have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act and you will not defer to the states."

You answered:

“Mercury under Section 112 is something that EPA should deal with and regulate.”

You stated this many times. I was very clear in my questioning that I was asking about mercury emissions and of course, the many other air toxic emissions, which the courts have said must be regulated under Section 112(d) from power plants. However, in this answer, you only mentioned mercury and not power plant mercury emissions, and you completely disregarded the other air toxics that are emitted by power plants, which include acid gases and carcinogenic metals like arsenic, nickel and cadmium. So please clarify, if confirmed, can we have your assurance that the EPA will continue to regulate power plants using the technology based standards required by Section 112(d) of the Clean Air Act and you will not defer to the states. Please answer in regards to all power plant air toxic emissions, not just on the question of mercury itself, and not just with respect to whether mercury should be regulated, but as to whether power plant mercury and other air toxics must be regulated.

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

38. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. After our first exchange, you stated:

“There was no argument that we made from a state perspective that mercury is not a hazardous air pollutant under Section 112. Our argument focused upon the cost-benefit analysis that the EPA failed to do and the Michigan v EPA case the Supreme Court actually agreed. It was more about the process again that the EPA was supposed to go through in regulating mercury to provide certainty to

those in the workplace, not a statement in respect whether mercury should be regulated or not under section 112.”

Mr. Pruitt, in this exchange, did you mean to avoid the question whether power plant mercury and other HAPs must be regulated under the technology based requirements of maximum achievable control, under Section 112(d)? Or do you agree the Supreme Court, which expressly declined to consider this question, leaving the MATs Rules Section 112(d) regulations in place? Please fully explain your previous statements.

Neither statement is false. As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants, and Oklahoma was not challenging mercury’s status as a HAP in the case you reference. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma’s legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

39. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. As you may remember, I specifically asked you at the end of the hearing:

“Based on your earlier statements, that if confirmed we can have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act and you will not defer to the states.”

You answered:

“Mercury under Section 112 is something that EPA should deal with and regulate.”

You stated this many times during our exchanges. I was very clear in my questioning that I was asking about mercury emissions from power plants. And of course as well the many other air toxics emitted by this industry and listed by congress for regulation. However, in this answer, you only mentioned mercury and not power plant mercury emissions, or other air toxics at all. So please clarify,

- Do you agree that the EPA's recent consideration of the costs of the Mercury and Air Toxics Rule that shows that the agency has met the "necessary and appropriate" criteria Congress provided under 112(n) to direct the EPA to regulate power plant mercury (and other air toxic) emissions under Section 112, and more specifically under Section 112(d)? If not, why not?
- If you do not agree that EPA has met the "necessary and appropriate" criteria found in Section 112(n), what is your understanding of what that would mean for the Mercury and Air Toxics Rule?
- If the pending case you brought before the DC Circuit challenging EPA's cost analysis (Murray Energy Corporation, et al v EPA), is successful what is your view of what EPA would have to do to regulate mercury and other hazardous air pollutant power plant emissions under Section 112?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. In my capacity as Attorney General of the State of Oklahoma, on remand the petitioner group has argued that EPA's supplemental finding regarding costs is contrary to law and arbitrary and capricious for the reasons stated in that brief. If the D.C. Circuit finds against EPA, I am confirmed as Administrator and the matter comes before me at that time, I will seek and follow the advice of EPA Ethics Counsel in determining whether I may participate in that matter. If I do participate in that matter, I will apply the Clean Air Act faithfully and use my best efforts to take appropriate action in light of the administrative record before the Agency at that time.

40. In the pending case you brought before the DC Circuit challenging EPA's cost analysis (Murray Energy Corporation, et al v EPA), the following statement is included in your brief:

"EPA also claims that, even though it was able to quantify highly uncertain IAQ benefits purportedly resulting from mercury emissions, other health and

environmental benefits of reducing EGU mercury, acid gas, and non-mercury metals emissions simply could not be quantified. But these purported benefits are to speculative to support "appropriate and necessary" finding for the same reasons the Agency cannot quantify them: they are not supported by the scientific literature."

As you probably know, the health benefits of cleaning up hazardous air pollutants are many, although many are difficult to quantify and certainly difficult or impossible to monetize. There are, however, several studies on how to quantify loss of IQ from mercury exposure and some early studies on how to quantify long-term effects of exposure. If confirmed, how do you recommend the EPA calculate the health risks to the unborn that may be exposed to mercury-laden fish because of power plant mercury emissions? How would you quantify the health risks of the Oklahomans living near the forty lakes that have mercury fish consumption advisories? There are also emerging studies quantifying the health impacts of the toxic metals and acid gases emitted by power plants, although monetizing the precise health costs of each pollutant are not possible as they are emitted in the toxic soup. How would you justify not protecting people living near these emissions if it were not possible to precisely quantify the health risks of exposure to power plant emissions of hydrochloric acid, hydrofluoric acid, nickel, arsenic, chromium and other heavy metals?

If I am confirmed as Administrator, I look forward to working with EPA staff to arrive at a transparent and scientifically sound process for determining the health risks associated with any activity that is properly before me at the Agency, including those related to mercury exposure, and regulating those activities as appropriate consistent with Congress's intent in enacting the Clean Air Act.

41. What industry is the largest emitter of mercury air emissions in this country? The second? The third? Please provide peer-reviewed data and sources for this answer.

EPA's technical support document (v2) for the 2011 National Emissions Inventory indicates that the industries that are the three largest point source emitters of mercury in the U.S. are (1) utility coal boilers, (2) electric arc furnaces, and (3) industrial, commercial institutional boilers and process heaters.

42. What impacts do mercury power plant air emissions have on unborn children? Can you explain how power plant mercury emissions settle in water bodies and eventually can impact the unborn?

Some portion of mercury emitted into the air by power plants is deposited directly or indirectly into a watershed. Once present in the watershed, it can be naturally converted into methylmercury, which can then be absorbed by aquatic organisms, such as fish, and consumed by humans. The unborn children of pregnant women can be exposed to methylmercury if their mothers consume those fish.

43. How much of our nation's mercury air emissions come from the natural environment, vs manmade emissions? Please provide peer-reviewed data and sources for this answer.

J.M.Pacyna et al.: Current and future levels of mercury atmospheric pollution on a global scale, Atmos. Chem. Phys., 16, 12495–12511, 2016, indicates that approximately 30% of worldwide mercury emissions are manmade and 70% come from primary natural mercury emissions and re-emissions.

44. Mr. Pruitt, do you understand that EPA's data show that power plants emit not only 50 percent of all US emissions of mercury, but that they also emit 82% of hydrochloric acid gas, 62% of hydrofluoric acid gas as well as many listed heavy metals, which are emitted as particulate matter, including Selenium (83% of domestic emissions), Nickel (28% of domestic emissions), Arsenic (62% of domestic emissions), Chromium (22% of domestic emissions), and others? The cite for those statistics is found in EPA's record at 76 Fed. Reg. Page 25006 Table 5. Given that Section 112(d) as interpreted by the US Courts for many years requires the regulation of all listed hazardous air pollutants from listed industries, would you not agree that power plant hazardous air pollutants must all be regulated under the technology based requirements of section 112(d)?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. If confirmed, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

45. Given that the statute requires a showing that not one power plant emits hazardous air pollutants in amounts greater than required to cause a lifetime risk of cancer greater than one in a million to the most exposed persons, and for non-carcinogenic air toxics, to exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effects, and given that EPA's long standing record shows that the coal- and oil-fired power industry cannot make either of those showings what other regulatory mechanism do you believe is available "under section 112"?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. If confirmed, I will enforce Mercury Air Toxics Rule so long as that Rule remains in force. If I am confirmed as Administrator and am presented with information showing that EPA has discretion to regulate power plants in a manner that is consistent with the Clean Air Act but that differs from the Mercury and Air Toxics Standard, or that power plants meet the standard for de-listing under Section 112(c)(9), I would consider that matter in due course as I would consider any other matter under my jurisdiction in due course.

46. The joint brief filed by your state and the regulated industry in the most recent round of appeals of EPA's decision making on power plant air toxics suggests that you are not aware of recent court precedent upholding EPA's evaluation of all the benefits, including so-called 'co-benefits' of EPA's rulemaking on particulate matter reductions that would be the direct result of the rule. What is your position on the importance of judicial precedent in governing the Agency's actions under the same statutes as have been previously interpreted by the courts?

If confirmed, I would faithfully comply the Clean Air Act in accordance with congressional intent. Judicial precedent is undoubtedly an important guide to congressional intent but Congress has also delegated interpretive authority to the Administrator of the Clean Air Act, consistent with judicial review. If I am confirmed as Administrator and form the judgment that a judicial decision is incorrect, I would consider seeking an appeal or petition for certiorari to the Supreme Court seeking reversal of that decision. Likewise, EPA recently promulgated regional consistency regulations that address the implication of adverse federal court decisions that result from challenges to locally or regionally applicable actions and I would exercise my discretion under those regional consistency regulations unless and until they are changed.

47. As I am sure you are aware, the US Supreme Court has expressly declined to consider whether EPA should have chosen some other mechanism "under section 112" in regulating power plant mercury and all the other HAPs emitted by the industry. What is your position on that precedent?

In the White Stallion decision, the D.C. Circuit held that EPA's interpretation of Section 112(n) that Sections 112(c) and -(d) provided the appropriate mechanism for regulating power plants under Section 112 after the appropriate and necessary determination was made was entitled to deference. As your question indicates, the Supreme Court did not grant

discretionary review of that question. So long as the White Stallion decision is not reversed by the D.C. Circuit and the underlying agency action is not vacated, it remains a valid judicial precedent on this point.

48. Given that you have been actively suing the EPA over the Mercury and Air Toxics Rule and have one pending lawsuit, will you recuse yourself from participating in any decision making that may reopen the EPA's decision regarding the fact that it is "necessary and appropriate" to regulate power plants under Section 112 of the Clean Air Act?

As I stated in my testimony to the Committee, I will follow the advice of EPA Ethics Counsel in all recusal matters.

49. If confirmed, will you continue with EPA's assertion that it is "necessary and appropriate" to regulate mercury and other hazardous air pollutants from power plants under Section 112 – specifically under the technology based maximum achievable control requirements of Section 112(d)?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce all aspects of the Mercury Air Toxics Rule so long as that Rule remains in force.

50. Do you agree with the *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001) decision written by Justice Antonin Scalia that states that the EPA cannot consider implementation costs when setting primary and secondary National Ambient Air Quality Standards? If you do not agree, please explain.

As I stated in my testimony to Congress, there are instances where consideration of costs is not a factor. Setting the NAAQS for criteria pollutants is one such instance.

51. In 2015, you stated that in implementing the tighter ozone NAAQS, the EPA "failed to achieve the goals to protect air quality; the agency did not "articulate how the rule would further protect public health"; and was another "attempt by the administration to use executive agencies like the EPA to bypass Congress." Can you please explain what you meant by these statements?

Based on the limited information in the question, the source or context of the quote to which the questions refers is not readily apparent. Oklahoma

joined four other states in a petition for review of EPA's 2015 decision to lower the National Ambient Air Quality Standard for ozone from 75 ppb to 70 ppb. The legal question raised by the state petitioners in the case is whether EPA set the standard at a level than can be achieved by states given the background concentrations and uncontrollable sources of ozone in many parts of the country. The briefs filed by the many State petitioners to that rule fully explain the States' position and speak for themselves. The case remains pending before the U.S. Court of Appeals for the District of Columbia Circuit.

52. As many of my colleagues know, I am an avid runner. I especially love to run with my 22-year son, who is a triathlete. In Delaware during the summer, we often have code orange days warning about the high levels of ozone for that day. Can you take a minute or two to describe how high levels of ozone could damage my lungs if I were to take a long run during a code orange day? Does ozone pollution cross state boundaries? If confirmed, how would you direct states to work together to reduce ozone pollution?

As I indicated at my nomination hearing, the Cross-State Air Pollution Rule is important, as pollution does cross state boundaries. An upwind state that contributes to a downwind state's inability to meet air quality standards should take responsibility.

53. In 2013, you argued that the EPA's decision to impose a Federal Implementation Plan on Oklahoma to address Regional Haze would cost more than \$1 billion over five years. It is three years later. Do you still agree with this cost assessment? If not, why not?

The cost estimates referenced in this question were developed in connection with the Oklahoma State Implementation Plan that EPA rejected and EPA's subsequent decision to implement a Federal Implementation Plan. Oklahoma and a state utility filed legal challenges against the Federal Implementation Plan decision. The 10th Circuit initially stayed the rule pending judicial review. A split panel of the 10th Circuit upheld the Federal Implementation Plan in 2013. As Attorney General, I have not had reason to revisit the specific cost estimate at issue in this case.

If I am confirmed as Administrator, I will use my best efforts to hold to the five-year NAAQS review period prescribed by the Clean Air Act.

54.If confirmed, will you continue to hold to the five-year National Ambient Air Quality Standards review time period that the Clean Air Act requires of the EPA?

If I am confirmed as Administrator, I will use my best efforts to hold to the five-year NAAQS review period prescribed by the Clean Air Act.

55. In previous hearings in this committee, we have had a few economists testify questioning EPA's science linking small particle pollution to negative health impacts. Can you just take a moment and talk about what you know about small particles and how they impact our lungs? Is the science robust in this area?

The science linking adverse health impacts and fine particulate matter pollution is well established. Accordingly, EPA has promulgated a National Ambient Air Quality Standard for particulate matter pollution that limits the concentration of small particulates, including those smaller than 2.5 microns, in the ambient air that at the level that the agency has determined is requisite to protect public health and welfare from adverse effects, while allowing an adequate margin of safety.

56. Mr. Pruitt, Section 109 of the Clean Air Act is very clear. It requires EPA to review the NAAQS for six common air pollutants including ground-level ozone, particulate matter, sulfur dioxide, nitrogen dioxide every 5 years. The Clean Air Act requires EPA to set these standards that "are requisite to protect the public health," with "an adequate margin of safety," and secondary standard necessary to protect public welfare. The science was clear that the 2008 ozone standard was not protecting public health, so EPA was required to Act. Is that not your understanding of the Clean Air Act?

Section 109 of the Clean Air Act requires EPA to set NAAQS at the level that is requisite to protect against adverse health and welfare effects, while allowing an adequate margin of safety. The Act includes a regular review cycle for criteria pollutants.

57. The EPA updated the Cross-State Air Pollution Rule in September 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing a CRA resolution of disapproval that would reject these new standards?

Although I am familiar with the update to the Cross-State Air Pollution Rule and generally familiar with the Congressional Review Act, I have not

reviewed any potential legislation which may reject these new standards. If I am confirmed, I will thoroughly review any resolution of disapproval which may be filed pursuant to the Congressional Review Act on this issue.

58. Mr. Pruitt, the Clean Air Act recognizes that air pollution does not respect state boundaries and directs EPA to set minimum national standards to protect the health of the nation, including protecting downwind states.

- Do you agree that EPA should set minimum national standards?
- Do you agree that EPA must protect downwind states?

As I indicated during my nomination hearing, I believe the Cross State Air Pollution Rule is important and should be enforced by the EPA. An upwind state that contributes to a downwind state's nonattainment should take responsibility for that contribution.

59. Mr. Pruitt, my State of Delaware is a downwind state, and most of the air pollution in my state is coming from upwind states.

- Do you agree that it is EPA's role to ensure equity between where air pollution is produced and where it is received?
- Do you agree that to remedy this unfairness, the upwind states must do more to control their emissions to avoid exporting the pollution (and the costs to the health and welfare) to the downwind states?

As I indicated during my nomination hearing, I believe the Cross State Air Pollution Rule is important and should be enforced by the EPA. An upwind state that contributes to a downwind state's nonattainment should take responsibility for that contribution.

60. As you are well aware, on April 2, 2007, in *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court determined that sufficient information existed then for EPA to make an endangerment finding with respect to the combined emissions of six greenhouse gases from new motor vehicles and new motor vehicle engines under CAA section 202(a). On December 7, 2009, the Administrator determined that those gases/sources contribute to greenhouse gas pollution that endangers public health and welfare. How do you plan to execute your legal authority to protect the public health and welfare from greenhouse gas pollution?

The Supreme Court held that GHGs are an air pollutant under the Clean Air Act. It did not address the question of whether regulation of GHGs under the Clean Air Act is warranted. In the subsequent UARG decision, the

Supreme Court cautioned EPA that there are significant limits on EPA's authority to regulate GHGs under the Clean Air Act. The unprecedented Supreme Court stay of EPA's so-called "Clean Power Plan" was predicated upon a finding that the plaintiffs in the case were likely to prevail on the merits. In light of these holdings, I will hew closely to the text and intent of the Clean Air Act when considering further regulation of GHGs under that law if confirmed as Administrator.

61. Building off Congress's work on CAFE, the Obama Administration has updated emission standards for light and heavy-duty vehicles. These rules have had very little effect on the purchase price of new vehicles, but have saved consumers millions of dollars in fuel costs, vastly improved our energy security by slowing petroleum use and reduced a lot of pollution. If confirmed, do you support further strengthening vehicle emission standards? And with your federalism view, how do states address carbon pollution from vehicles themselves?

In making each of its decisions regarding light- and heavy-duty vehicle emission standards, the EPA has made decisions based on the administrative record at hand and Congress's statutory objectives. If confirmed, I would take care to make such decisions regarding vehicle emissions standards in furtherance of Congress's statutory objectives, based on the evidence in the administrative record. With respect to federalism, the Supreme Court stressed in *Massachusetts v. EPA* that States play a crucially important role in promulgating vehicle emission standards under the Clean Air Act: each "State has an interest independent of and behind the titles of its citizens, in all the earth and air within its domain." To that end, "Congress has ordered EPA to protect [the States and their people] by prescribing standards applicable to the 'emission of any air pollutant from any class or classes of new motor vehicle engines, which in [the Administrator's] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.'" Furthermore, the Clean Air Act and other federal administrative laws give each affected State "a concomitant procedural right to challenge the rejection of its rulemaking petition as arbitrary and capricious," and the Supreme Court affords States "special solicitude" to challenge the resulting standards in court. If confirmed, I would take care to ensure that States continue to play a central role in the administrative process giving rise to the EPA's vehicle emissions standards.

62. The EPA promulgated phase two of the heavy-duty vehicles greenhouse gas emissions standards in August 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing into law a CRA resolution of disapproval that would

reject these new standards? What is your view of whether the EPA would be able to re-issue any heavy-duty vehicle greenhouse gas emission standards given the CRA's language that would prohibit the agency from issuing regulations that are "substantially similar?"

Although I am familiar with the regulations on heavy vehicle greenhouse gas emissions standards which were published in August 2016, I have not reviewed any potential legislation which may reject these standards. If I am confirmed, I will thoroughly review any resolution of disapproval which may be filed pursuant to the Congressional Review Act on this issue. In terms of re-issuing other heavy-duty vehicle greenhouse gas emission standards, I would have to be briefed in detail on the regulations which have been published, and the provisions of the Congressional Review Act which prohibit the Agency from issuing any regulations which are substantially similar to the initial rules in order to determine what options the Agency may have in terms of proposing and finalizing additional regulations in this space.

63. As you know, the Renewable Fuels Standard, as amended by Congress in 2007, requires the blending of 36 billion gallons of renewable fuel into conventional gasoline and diesel by 2022. In order to add that many renewable fuel gallons to our fuel supply, do you agree that EPA must approve the sale of fuels blended with greater than 10-percent renewable content?

While Congress included "applicable volume" levels in the RFS statute, Congress also took care to expressly authorize the EPA Administrator to reduce volumetric requirements below the statute's default levels in light of real-world conditions from year to year. Specifically, the Administrator may waive the statute's volume requirements if he determines "that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States, or "that there is an inadequate domestic supply." The EPA already has granted such waivers based on real-world conditions in recent years and, if confirmed, I would take care to administer the statute in accordance with the statutory objectives. While no statute mandates the sale of fuels blended with greater than 10 percent renewable content, statutes do vest the Administrator with discretion to authorize a variety of fuel blends.

64. In October 2010, EPA approved the use of a 15-percent renewable fuel blend for cars built in 2007 or later. In the following January, EPA extended the use of that blend to model years 2001 to 2006. Do you support the decision by the EPA to allow 15-percent renewable fuel blends? If confirmed, would you commit to

using the discretion give to you by the Clean Air Act to evaluate even higher blends?

The EPA's 2010 and 2011 decisions to grant "partial waivers" for the use of E15 fuel for some vehicles were premised upon the EPA's conclusions (based on the administrative record) regarding E15's potential impacts on exhaust emissions (both immediate and long-term), evaporative emissions, "materials compatibility," and "drivability and operability." If confirmed, I would take care to administer the law in accordance with Congress's statutory objectives and the administrative record.

65. The Renewable Fuels Standard was designed to reduce dependence on foreign oil at a time that the U.S. was importing well more than half of its demand and concerns about energy and national security were paramount. It also was designed to reduce greenhouse gas emissions from the transportation sector.

Now that the United States supplies 76 percent of its oil domestically, do you believe the program continues to have an important role in enhancing the energy and environmental security of our country?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security."

67. As you heard in my opening statement, the EPA's record demonstrates that strong environmental policies create economic opportunities. An undeniable example of this is the impact of the Renewable Fuels Standard in rural America. According to the Renewable Fuels Association, in 2015, 14.8 billion gallons of ethanol was produced, supporting 85,967 direct jobs, while net petroleum import dependence fell to just 24 percent, and would have been 32 percent without the addition of domestically produced ethanol. In addition, the Association says the use of ethanol in gasoline in 2015 reduced greenhouse gas emissions from transportation by 41.2 million metric tons — equivalent to removing 8.7 million cars from the road for an entire year. Do you agree that the Renewable Fuels Standard has supported rural economies in America while allowing for the production of cleaner transportation fuels?

I agree that the RFS's promotion of renewable fuels contributes to economic growth in agricultural communities, and promotes the production and consumption of transportation fuels providing many environmental benefits.

68. Some of my colleagues believe removing the corn ethanol mandate, but keeping the advanced biofuel mandate in the RFS is the best way forward. Do you have concerns with this approach?

The RFS statute neither expressly mandates the blending of corn ethanol nor prohibits its blending. In enacting the RFS statute, Congress took care to expressly authorize the EPA Administrator to reduce the volumetric requirements below the statute's default levels, in light of real-world conditions. Specifically, Congress authorized the Administrator to waive the volume requirements if he or she determines "that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States, or "that there is an inadequate domestic supply." The EPA already has granted such waivers based on real-world conditions in recent years and, if I am confirmed, I would take care to administer the statute in accordance with the statutory objectives.

69. As you may know, in recent years we have seen significant swings in Renewable Identification Number (RINs) prices. RINs are used by the EPA to track and ensure refineries are in compliance with the Renewable Fuel Standard. Many small and mid-range refineries are having difficulties with the price spikes of the RIN prices because many are buying some, if not all, their RINs off the market. As a result, high and volatile RIN prices have had a financial impact on these refineries. As the RFS continues to be implemented, what do you believe the agency should do – if anything - to assist with RIN prices?

As I indicated in my testimony, the EPA's RIN framework is currently the subject of a pending comment period. If confirmed as Administrator, I would take care to administer the RFS program, including the RIN framework, in accordance with Congress's statutory objectives, and based on the evidence in the EPA's administrative record, as well as the expertise of EPA staff and the expertise of other federal agencies relevant to the RIN framework and affected markets. The EPA already has entered into a "memorandum of understanding" with the CFTC, "on the sharing of information available to EPA related to the functioning of renewable fuel and related markets."

70. Mr. Pruitt, do you agree that the burden should be on a chemical facility operator to show that the design and operation of the facility is as safe as possible to protect workers and the public from explosions, fires, and other releases of toxic chemicals?

I believe that every American should be provided safe home and work environments and people who live or work in and around chemical facilities are no exception to that.

71. Mr. Pruitt, when there are feasible measures that chemical companies can take to prevent explosions and fires that release toxic chemicals into surrounding communities that can kill people, do you agree that the companies should take such measures?

I believe that chemical companies should take actions to prevent explosions and fires as well as other safety incidents.

72. Do you support the “not net loss of wetlands” policy? George H.W. Bush initiated this critical policy in 1988 to protect our remaining wetlands habitat and all of the critical ecological and economic functions it supports. It has been U.S. Government policy ever since.

Yes.

73. A GAO report published on December 5, 2013 found that “more than 40 years after Congress passed the Clean Water Act [...] EPA reported that many of the nation's waters are still impaired, and the goals of the act are not being met. Without changes to the act's approach to nonpoint source pollution, the act's goals are likely to remain unfulfilled.” If confirmed, how will you work to address surface water quality impairments, including from non-point source pollutants?

Congress did not grant EPA authority to regulate non-point sources because regulation of non-point sources is the regulation of land, a traditional state authority. Instead, Congress created a planning process under section 208 of the Clean Water Act and authorized funding for state non-point source management plans under section 319. If confirmed, I will implement the authorities granted to EPA by Congress.

74. You have attacked the Obama Administration's “Waters of the United States” regulation, objecting to “the significant negative impact such a rule would inflict on states and the landowners within their borders.” Oklahoma's major streams and rivers lie within two river basins, the Red and the Arkansas, both of which flow into other states. And Oklahoma receives most of its waters from upstream neighbors, particularly Texas. Without national regulation, how would you suggest that that Oklahoma's downstream neighbors - Arkansas and Louisiana -

guarantee the quality of the water that flows across their boundaries? And how would you suggest that Oklahoma protects the quality of the water that it receives from upstream neighbors like Texas? You appear to believe that the only parties with an interest in water are those within a state, not downstream neighbors. Why?

Federal jurisdiction exists over navigable water, interstate water, and tributaries that can transport pollutants to navigable waters, and jurisdiction over the interstate rivers that are the subject of your question is not in dispute.

75. Communities across the country are facing the economic and health consequences of contaminated ground water, which impacts water systems and private well owners. How will you work to ensure communities are protected from drinking contaminated ground water? How will you address and strengthen the EPA's response to groundwater contamination and ensure homeowners and water systems are taking the steps to diagnose, treat, and remediate their groundwater resources?

For drinking water wells that are public water systems, the requirements of the Safe Drinking Water Act apply and EPA has authorities to provide small systems with technical assistance through circuit rider programs. For private well owners, the WIIN Act provided authority for EPA to support a drinking water technology clearinghouse for well owners. If confirmed, I will use the authorities and resources granted by Congress to help both public water systems and well owners.

76. This question is of interest to Senator Manchin and me: We must do everything we can to ensure that every American has access to safe and clean water. West Virginia has had issues with chemicals like PFOA in our drinking water as recently as last year. In fact, the State had to ship in alternative water supplies to the city of Vienna. Martinsburg and Parkersburg also had serious challenges. And, in 2014, the Elk River Chemical Spill left 300,000 West Virginians without access to potable water, so I know Senator Manchin looks forward to working with you to promote federal clean water initiatives. He also appreciates your commitment in your meeting together to working to address these challenges. Please outline how you intend to expand efforts to promote safe drinking water and support the modernization of our nation's water infrastructure.

If confirmed, I will focus on EPA's core missions, including, as appropriate, use of EPA's emergency order authority under the Safe Drinking Water Act.

I also will implement the newly revised TSCA statute to address chemicals and will continue implementation of monitoring, review, and regulation of contaminants under the SDWA if confirmed.

77. One of the tools within the Clean Water Act that communities can use to restore the quality of polluted waters is through the development and implementation of a Total Maximum Daily Load (TMDL) plan. The GAO also found that funding for TMDLs has been insufficient in meeting national needs, with more than 50% of the nation's waters being identified as impaired. Will you advocate for funding to match the needs for the TMDL program? How do you plan to support and strengthen the Total Maximum Daily Load (TMDL) regulatory framework?

If confirmed, I will support continued funding of State programs authorized under section 106 of the Clean Water Act, which states use in part for TMDL development. I also will support flexibility for state use of 106 funds to allow states to focus on priorities such as impaired waters requiring TMDLs. If confirmed, I also will support the continued development of tools to help states develop TMDLs. Finally, I would note that neither GAO nor EPA has said that 50% of the nation's waters are identified as impaired. For example, states have assessed about 32% of rivers and streams. Of those assessed waters, states have identified about 54% as impaired. That means states have data showing that 17% of rivers and streams are impaired. You cannot extrapolate the data from assessed waters to all waters because most states target their monitoring to focus on waters they have reason to believe are impaired, so they can target their resources where they are needed the most.

78. You expressed great pride in your role in resolving the Mahard Egg Farm enforcement, indicating that it demonstrates your commitment to enforce environmental law. When was the complaint in the litigation filed, and how did that date correspond to the date of the proposed consent decree? Based on your responses to these questions, how well investigated and developed was this case when you took office? Can you explain your personal involvement in either the complaint or the consent decree?

The complaint was filed on May 23, 2011. The consent decree was entered into on August 10, 2011. There was no filed case when I took office, but the matter had been investigated by the Office of Attorney General, the Oklahoma Department of Agriculture, the EPA, and the State of Texas. I authorized the filing of the case once in office. The complaint and consent decree were handled by the attorneys in the Office of Attorney General responsible for environmental matters.

79. Mr. Pruitt, the Clean Water Act requires EPA to review and revise its national water quality standards for pollutants based on the best available science. EPA has proposed or finalized more stringent standards for ammonia, nutrients, selenium, and dental offices. Do you agree that these standards must be based on the best available science?

Under section 303(c)(1) of the Clean Water Act, states are required to, every three years "hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards." Proposed changes to state water quality standards are submitted to EPA. Under 303(c)(3), EPA is to approve the state standards if they meet the requirements of the Clean Water Act. Under section 304, EPA establishes water quality criteria that provide guidance for state water quality standards. The Clean Water Act directs EPA to review these criteria documents "from time to time" except for criteria to protect public health from pathogens in recreational coastal waters, which must be reviewed every 5 years. Unlike the Safe Drinking Water Act, the Clean Water Act does not require the use of best available science. That said, I believe it is always important to use best available science, particularly for science documents like water quality criteria documents.

80. Last Congress, our committee worked together to pass the Frank R. Lautenberg Chemical Safety for the 21st Century Act, a bill overhauling the toothless Toxic Substances Control Act, that was signed into law earlier this year. EPA is now responsible for implementing the law, which will require a significant amount of resources. If confirmed, do you commit to ensuring EPA will prioritize implementation and has sufficient resources to comply with the requirements and timelines established by Congress?

As you are likely aware, I wrote this body a letter urging passage of the Lautenberg Chemical Safety Act. If confirmed as EPA Administrator, I will take care that the Act is faithfully executed. A copy of that letter is attached.

81. Last year, the Toxic Substances Control Act was signed into law. There was little doubt that this bipartisan legislation was overdue and very necessary to protect our constituents. EPA has already announced they are fast-tracking five chemicals under the authority of the new TSCA regime. You mentioned during our meeting earlier this month that you were concerned with some of the more aggressive timelines included in this legislation. Please elaborate. Please also outline how you intend to support the Agency in ensuring they have the resources to comprehensively implement this landmark legislation.

The Lautenberg Act has a number of statutory deadlines that must be met by the Agency when carrying out the law. If confirmed I fully intend to pick up the process where the previous administration left off with completing the required rulemakings and initial chemical reviews as well as subsequent prioritizations. The updated law also allowed for updating the industry user fees used to fund the program, a process started by the previous administration, and one which I intend to quickly evaluate.

82. You have publicly supported the recent updates to the TSCA law. Since this legislation pre-empts state actions, how does that align with your views on states rights and federalism? Do you agree that federal environmental laws – such as the Mercury and Air Toxics Rule, TSCA and Clean Power Plan – also provide certainty to businesses that have to do business across the country?

Article 1, Section 8, Clause 3 of the U.S. Constitution, which gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.” Unlike the Clean Water and Clean Air Acts which regulate pollutants TSCA regulates chemical substances manufactured for commerce in not only all 50 states but often globally. Federal preemption of states is appropriate when dealing with interstate commerce issues and the Lautenberg Act’s preemption provisions comport to my views on states’ rights and federalism for those reasons.

83. Do you think that companies that work in the U.S. and around the world should be able to hide chemical information here that they have given to governmental regulators elsewhere?

The Lautenberg Act amended Section 14 of TSCA to delineate a process by which to protect, review, and possibly make public chemical information. If confirmed I intend to implement the law as passed by Congress.

84. In a 2005 U.S. Senate Committee on Homeland Security and Governmental Affairs hearing, President-elect Trump publicly praised asbestos, calling it “the greatest fireproofing material ever made.” Every major independent scientific organization, including the World Health Organization, the International Agency on Research for Cancer (IARC), and others, acknowledges asbestos as a known human carcinogen with no safe level of exposure. The US EPA spent years studying the dangers of asbestos, and ultimately attempted to ban most uses. Just last month, the EPA redoubled its stance on the dangerous nature of asbestos by designating it as a top-ten high-risk chemical for priority TSCA action. If confirmed, will you heed the decades of conclusive science about asbestos or

will you allow the President-elect's personal opinion skew the EPA's actions on asbestos?

The Lautenberg Act has extensive requirements for risk evaluations and the use of sound science in decisions throughout the chemical review and potential regulatory process. If confirmed I will implement the law following those statutory requirements.

85. You may be aware that asbestos use has drastically declined among industries that once used it heavily, including the construction and automotive sectors, as those industries began switching to safer substitutes. As a result, one industry now accounts for 90% of all asbestos consumed in the U.S. — the chlor-alkali industry, which uses asbestos diaphragms in its chlorine manufacturing process. The chlor-alkali industry has been the only point of public pushback against an asbestos ban under TSCA, and they have asked the EPA to exempt the chlor-alkali industry's use from any regulation on asbestos. Exempting the primary user from a restriction or ban, of course, would result in negligible impact. Will you commit to ensuring that any regulation or restriction on asbestos does not allow for any exemptions for the chlor-alkali industry or any other industry?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

86. The EPA promulgated a ban on asbestos in 1989, after a decade of research, risk evaluation, and rulemaking. In 1991, the asbestos ban was overturned by the 5th Circuit Court of Appeals on the grounds that the ban fell short of EPA's requirement to impose regulations that are "least burdensome" to industry. Under the Lautenberg Act reforms to TSCA, the EPA is now empowered to ban and regulate chemicals that are "toxic, persistent, and bioaccumulative," like asbestos, without concern for industry cost or any other non-risk factor. Will you commit to ensuring that industry concerns are not considered during the risk evaluation and rule making processes regarding asbestos?

The Lautenberg Act requires notice and comment be provided at multiple stages of the chemical review process including prior to publishing a final risk evaluation and through any potential subsequent regulatory rulemaking. This notice and comment is designed to get the input of a wide range of stakeholders to ensure sound and inclusive rulemakings and not to produce or dismiss comments from one particular entity or interest.

87. On April 9, 2015, you wrote a letter in support of the Lautenberg Act reforms to TSCA. In this letter, you expressed your support for the EPA: "I believe the agency, within the boundaries of its authorities as provided by Congress, serves a valuable mission to protect human health and preserve the environment." During the writing, negotiations, and passage of the Lautenberg Act, Congress — and the sitting President — made explicitly clear their intentions that the newly empowered EPA should swiftly ban asbestos and other deadly toxins. How will you ensure the EPA is able to meet statutory TSCA deadlines set forth by Congress?

I am committed to implementing the Lautenberg Act as required by law including meeting the statutory deadlines enumerated in the law including the required rulemakings, risk evaluations, and future chemical prioritizations.

88. In your April 9, 2015 letter in support of the Lautenberg Act reforms, you specifically praised the bill's explicit protection of vulnerable populations, including workers. Asbestos is one of the leading workplace carcinogens, responsible for approximately half of all occupational cancer deaths, according to the World Health Organization (WHO). During 1999 - 2014, the CDC NIOSH National Occupational Respiratory Mortality System (NORMS) database, there were 62,956 Americans who died from mesothelioma and asbestosis. These are just two of many deadly asbestos-related diseases. Given this data and your self-expressed concern for protecting workers, will you commit now to ensuring the EPA bans the import and use of asbestos under TSCA should you be confirmed?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

89. Your home state of Oklahoma leads the nation in pesticide-related illnesses and deaths. At a time when pesticide/herbicide usage is on the rise across the country, how would you protect American workers, consumers, and landscapes from the toxic effects of agricultural chemicals?

If confirmed as Administrator, I would faithfully execute the laws administered by EPA. I would expect to be briefed by staff before taking any action on this issue.

90. What will you do to ensure EPA is conducting a transparent process regarding pesticide regulation? Please specify how you will approach notifying the public regarding pesticides in terms of notice of actions, publication of information (including studies and data) in the dockets, or timely responses to requests under the Freedom of Information Act. If you do not believe in a transparent process, why not?

If confirmed, transparency and openness will be priorities, and I will work to ensure that the pesticide registration process complies with all public notice and transparency requirements under the law.

91. In June 2016 the White House Pollinator Health Task Force, which was co-chaired by the EPA, released the Pollinator Partnership Action Plan. Do you support this plan and EPA's role in it? If not, why not? Mr. Pruitt, do you agree that vulnerable populations, like pregnant women, infants, and children, must be specifically considered in the study of the impacts of toxic chemicals on human health? Why is this important?

I am not personally familiar with the report referenced in this question. In considering the health effects of chemicals, if confirmed as Administrator, I would expect to be briefed by EPA staff before taking action and would work to ensure EPA followed all applicable legal requirements and made its decisions based on sound science. If confirmed, I would also follow legal requirements regarding the use of science and consideration of health impacts on specific subpopulations.

92. For nearly a decade, a state-permitted coal ash disposal pit in Bokoshe, OK, operated by a company named "Making Money Having Fun," has caused severe air pollution through releases of fugitive dust, which have harmed residents of the town of Bokoshe. Encompassing 458 acres, the Making Money Having Fun pit covers 259 acres of a former coal mine with enough coal ash to fill the 70-foot-deep pit and create a miniature mountain stacked 50 feet high. The site is permitted to rise another 550 feet over the next 20 years. By 2036, the coal ash pit could hold 9.2 million tons of toxic waste. Since 1998, residents have complained about the toxic dust to state regulators. Residents of Bokoshe, particularly children, have experienced extremely high rates of asthma that are linked to high levels of fugitive dust. In addition, residents experience elevated cancer rates that may be linked to the dump site. In 2011, the CBS Nightly News covered the exposure of the community to toxic dust. See <http://abcnews.go.com/US/oklahoma-town-fears-cancer-asthma-linked-dump-site/story?id=13303440>. In 2014, the U.S. Environmental Protection Agency acknowledged that there was a problem with fugitive dust at the site. Ash samples

collected in Bokoshe contained elevated levels of the carcinogens hexavalent chromium and arsenic, among other toxic metals. The Making Money Having Fun pit is not the only unlined coal ash dump in a former mine in Oklahoma. Seven miles west of Bokoshe, in McCurtain, OK, coal ash protrudes like an iceberg from a water-soaked pit. McCurtain residents have complained about dust clouds, spurring two state notices alleging violations — one in 2011 and another in 2015. State records show seven similar coal ash dump sites permitted in the county where Bokoshe is located.

- Did the Oklahoma AG Office ever investigate the Making Money Having Fun pit for environmental violations?
- Did your office take any actions to require Making Money Having Fun to control fugitive emissions at the site?
- As Oklahoma AG, what did your office do to investigate coal ash dumps in Oklahoma for violation of environmental or health standards?

The matter you reference was handled by Oklahoma's environmental regulators at the Department of Environmental Quality.

93. Mr. Pruitt, do you believe that all citizens in the U.S. should be equally protected from the threats posed by the dumping of coal ash? Currently, communities near municipal solid waste landfills and abandoned mines where millions of tons of toxic coal ash are disposed are not protected by the new federal coal ash rule. Do you think these communities deserve equal protection from pollution of their air, water and communities from coal ash?

I do not question the importance of clean air, land, and water, and I believe all Americans should be treated equally under the law.

94. Mr. Pruitt, do you think it is important for communities to know what hazardous substances are stored and disposed in their neighborhoods? Do you think it is important for citizens to know what hazardous substances are in their drinking water? If so, as head of EPA, will you guarantee that all coal ash permit programs approved by EPA will be as protective as the federal coal ash rule, including requiring communities be kept informed regarding the condition of toxic dumpsites near their homes and the safety of their drinking water?

As discussed in my testimony, public participation and transparency will be among my priorities if confirmed as Administrator. I do not question the importance of clean drinking water. It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is

fully and fairly considered with input from staff, as part of a transparent process that seeks input from stakeholders, and that is consistent with EPA's statutory authorities, including the coal ash provision in the WIIN Act.

95. Mr. Pruitt, environmental justice organizations have noted that 70 percent of coal ash dumps are located in low-income, disadvantaged communities. Do you agree that these communities deserve to know if coal ash ponds are leaking toxic substances into their drinking water supplies? Do you agree that these citizens have a right to expect that their drinking water be free of pollution from coal ash impoundments?

I am not familiar with the reports referenced in the question. As my testimony indicates, if confirmed as Administrator, I will prioritize public participation and transparency. I believe all Americans should be treated equally under the law.

96. In recent years, spills, leaks and collapses of coal ash impoundments have become a greater and greater hazard to clean water. In fact, more than half of the total toxic water pollution found in America's rivers, lakes and streams comes from such impoundments. Do you believe that coal ash from power plants and other coal-burning facilities should be regulated as a hazardous pollutant, given that its chemical composition includes lead, mercury, cadmium and arsenic? What would you do as Administrator to ensure that the kinds of ash spills recently devastating Kingston, Tennessee and Dan River, North Carolina, never again occur, anywhere?

I am generally aware that EPA has recently determined that coal ash from power plants should be regulated as a non-hazardous waste under Subtitle D of the Resource Conservation and Recovery Act and supports that decision. I understand provisions of the WIIN Act recently passed by Congress and signed into law provides EPA and states additional authority concerning the regulation of coal ash through permit programs. If confirmed, I will work to ensure this new authority is implemented.

97. Mr. Pruitt, a growing body of scientific evidence has shown that people living near mountaintop removal coal mines face a number of increased health risks, including greater risk of cancer, birth defects, and premature death. If you are confirmed as EPA Administrator, how would your agency consider these health concerns?

If confirmed, I would consider human health in accordance with EPA's legal authorities.

98. Mr. Pruitt, do you believe that the people who live downstream from surface coal mining operations deserve to have their sources of drinking protected from contamination from toxic chemicals such as arsenic, selenium and lead?

I strongly believe in the importance of safe drinking water, and if confirmed as Administrator, will work to implement EPA's statutory authorities in this regard.

99. Mr. Pruitt, the Manhattan Project and the Cold War triggered a boom in uranium mining in the United States. Uranium mining was carried out under the 1872 Mining Law, which did not require mining companies to clean up the mines. Abandoned uranium and other hardrock mines litter the West. These abandoned mines leach toxic chemicals, including uranium, radium, radon, and arsenic into surface and ground waters that are sources of drinking water.

- Do you agree that there is insufficient funding to address the huge problem of abandoned uranium and other hardrock mines?
- Do you agree that the 1872 Mining Law must be reformed to provide funding for the cleanup of abandoned mines?

I have not studied the issue of whether the 1872 Mining Law should be reformed or whether there is sufficient funding to address the cleanup of abandoned mines. I am generally aware of questions about whether current environmental laws inhibit the cleanup of abandoned mines by Good Samaritans, but I would expect to be briefed by staff before considering any actions on this topic.

100. The EPA is responsible for overseeing the cleanup of some of our nation's most contaminated lands. One such site is the West Lake Landfill, a Superfund site located in Bridgeton, Missouri. This site has been contaminated since 1973 when soils were mixed with residues from the Manhattan Project and used as daily cover in the landfilling operation. Local residents are rightfully concerned and frustrated by delays at the EPA in determining a proper course of action for handling this radioactive waste. In the 114th Congress the Senate unanimously passed legislation that would transfer the remediation authority for West Lake to the Army Corps of Engineers' Formerly Utilized Sites Remedial Action Program (FUSRAP). FUSRAP is already successfully overseeing the cleanup of nuclear contamination at other sites in the St. Louis area. However, as of this moment, the authority over the West Lake site remains with the EPA. Please explain your

views on the EPA's authority and responsibility with regard to the cleanup of Superfund sites.

- If you are confirmed as the next EPA Administrator, would you support transferring the cleanup of sites like the West Lake Landfill to FUSRAP? Why or why not?
- If you support cleanup authority remaining with the EPA, what concrete steps would you pursue as Administrator to ensure that the agency is progressing toward a real solution at the site that protects both the environment and the health of area residents?

I am not familiar with this particular issue or the legislation that is referenced in the question, but I appreciate the interests that residents have in the efficient operation of the Superfund program and the clean up of contaminated sites in their community. It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered, as part of a transparent process that seeks input from all stakeholders.

101. Do you believe that if safer technologies or chemicals are available for a facility to use, that could prevent a serious chemical disaster, that the facility should be required to implement them to save lives, prevent injuries of workers, first-responders, and community members, and prevent serious economic damages from a disaster?

I believe workplace safety is very important and any potential regulatory decisions should be carefully examined through a open and transparent process to ensure facilities are not shifting to new chemicals or technologies that improve safety in one area but shift risks to create new and potentially more serious concerns.

102. Do you believe that federal agencies like the EPA have an obligation to consult Native American tribes when actions by the agencies could impact tribal sovereignty or the tribal trust relationship?

Yes, I believe that consultation is a sound practice that should occur whenever possible.

103. Indigenous communities are consistently targeted for energy extraction, nuclear waste, uranium mining and/or oil and natural gas pipelines. How will you address this moving forward?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress imposing obligations on me in this regard. Whenever possible, I will consult with Indian Tribes prior to taking actions that may affect their sovereign interests.

104. As Administrator, what steps will you take to ensure that EPA and other federal agencies are complying with Executive Order 12989 on Environmental Justice?

I am not familiar with what steps EPA has or has not taken undertaken to implement this Executive Order. If confirmed, I will work to ensure that EPA complies with all applicable Executive Orders.

105. In January 2015, EPA issued its final rule under the Resource Conservation and Recovery Act defining what is a solid waste for purposes of ensuring that the recycling of hazardous materials does not increase the risk of harm to people or the environment, known as the "Definition of Solid Waste" or "DSW" rule. As an integral part of the rulemaking on the DSW rule, EPA conducted an environmental justice analysis of the rule's protectiveness for minority and low-income populations. EPA published its detailed environmental justice analysis report on the DSW Rule with the final rule. Will you ensure that EPA conduct detailed environmental justice analysis on all significant rules that may have adverse impacts on minority and low-income populations and publish such reports along with the final rules?

I am not familiar with the environmental justice analysis referenced in this question. If confirmed, I will work to ensure EPA conducts the required analysis to support its regulatory actions in accordance with applicable statutory requirements and Executive Orders.

106. There are currently some forty pending civil enforcement actions in which EPA is discussing possible settlement terms or pursuit of litigation. In the past during a transition in power such pending actions have proceeded unimpeded. Will you follow this precedent and let them progress at their own pace or will you intervene? And, if you do opt to intervene on a case-by-case basis, what criteria will you use to determine which enforcement cases go forward and which do not?

I am unfamiliar with the specific details of the actions referenced in the question. I would expect to be briefed by staff, in consultation with the Department of Justice as appropriate, before taking any action.

107. Please provide a list of all financial contributors to your attorney general and state senate campaigns, including their total donations and affiliations.

A full list of contributors to my campaigns for the state senate and attorney general may be found at the Oklahoma Ethics Commission's websites. For state campaign committees from 2002-2014, please use this site: <https://www.ok.gov/ethics/public/candidate.php>. For 2015 to the present, the Commission uses this site: <http://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=1F26BA5E-71EA-48E4-8D50-C1013E9FE0A7>. Attached is a letter from the Oklahoma Ethics Commission regarding materials prior to 2002.

108. Why did you initially refuse a formal, independent audit of your office's finances from the Oklahoma State Auditor and Inspector as mandated by Oklahoma law? Please provide a copy of the findings of the 2016 audit.

I did not refuse an audit. I requested that an independent auditor conduct the audit, rather than the State Auditor. The State Auditor ultimately agreed to not participate in the audit, and the audit was completed. The results are publicly available.

109. Do you know Mr. Fount Holland of A.H. Strategies? If so, what is your relationship?

I am familiar with Mr. Holland. I have no relationship with him.

110. Do you know Continental Resources CEO Harold Hamm and if so, what is your relationship with him?

Yes. Harold Hamm is a friend.

111. You were a board member of the Rule of Law Defense Fund from November 2015 to November 2016. As a nonprofit, that organization doesn't have to disclose its donors. But the tax filings of the Koch brothers' Freedom Partners Foundation show that it contributed \$175,000 of the group's \$885,000 in 2014, nearly 20

percentage the total. Was the Koch brothers' Freedom Partner's Foundation the largest contributor to the Rule of Law Defense Fund? Did that Foundation have any say with respect to the Fund's activities?

I have no knowledge of whether the Freedom Partners' donation was the largest contributor to Rule of Law Defense Fund. I have resigned as Chairman and as a board member, and those records are kept by the staff of Rule of Law Defense Fund. RLDF's policies at the time I was a board member were that donors did not have any say with respect to the fund's activities.

112. The Rule of Law Defense Fund is an affiliate of the Republican Attorneys General Association, which has received more than \$2.25 million in funding from fossil fuel interests since 2015—money that goes primarily to help elect GOP attorneys general, according to an analysis of its activities by the Center for Media and Democracy. What are the fossil fuel-related activities of the Fund? Has the Fund supported or undertaken any public interest or environmental protection activities?

To my knowledge, RLDF has facilitated policy discussion on a wide range of issues, including many public interest and environmental protection issues, some of which may have some nexus to matters involving fossil fuels.

113. The Huffington Post reported this week that two election fundraising groups, Oklahoma Strong and Liberty 2.0, both linked to you spent at least \$637,034 since the start of 2015, even though you couldn't run for re-election as Oklahoma attorney general. These groups disbursed an average of roughly \$26,543 per month, both of which announced plans last week to shut down. Would you describe for the Committee where these funds went? Is the Huffington Post's characterization that these funds money went to consultants and travel correct? And what were the specific activities conducted with these funds?

I do not have any knowledge of where remaining funds from Oklahoma Strong PAC or Liberty 2.0 went after the entities closed. Both entities are managed by a staff and decisions are made independently of me.

114. Has Oklahoma Strong or Liberty 2.0 taken money from the fossil fuel industry?

This question would have to be directed to those that operate those entities.

115. Has any of the special interest money gone to other Attorneys General that may or may not sue the EPA if you are confirmed?

Without additional context to help me understand your question, I cannot answer it.

116. Has any of this special interest money gone to any member of the EPW Committee that will vote on your confirmation and serve as your oversight committee in the Senate if you are confirmed?

Without additional context to help me understand your question, I cannot answer it. In any event, I have no knowledge of the fundraising activities of the members of this committee.

117. Before being confirmed, will you disclose who has contributed to the Oklahoma Strong PAC and Liberty 2.0 Super PAC?

I do not personally have records of who has contributed to Oklahoma Strong PAC or Liberty 2.0 Super PAC. That information is publicly available on campaign finance reports, and in the possession of the staff of those entities.

118. Please provide the dates and the name of every event you attended as attorney general that was hosted by energy companies, energy representatives, energy lobbyists, or political action committees (PACs) that have energy donors.

Please see attached list.

119. For each listed matter in which the State of Oklahoma has been a litigant or petitioner against the EPA, please provide any and all documents (including any and all written or electronic correspondence, audiotapes, electronic records, videotapes, photographs, telephone messages, voice mail messages, e-mails, facsimiles, daily agendas and calendars, information about meetings and/or discussions, whether in-person or over the telephone, agendas, minutes and a list of participants for those meetings and/or discussions, and transcripts and notes of any such meetings and/or discussions) from the date on which your office first began to prepare the litigation at hand, to the date of this letter, between you (or other employees of your office) and each representative of each non-

governmental entity with whom you (or your office) communicated about the litigation.

In order for you to receive a comprehensive response to a voluminous request of that nature, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

120. Of the total outlays from the Attorney General's office during your tenure, what percentage of your office's expenditures in Oklahoma went toward suing the federal government or challenging federal regulations?

My understanding is that less than one percent of the Office of the Attorney General's budget has been for litigation involving legal challenges to federal actions.

121. How many legal cases did your predecessor bring against industry in Oklahoma or other states for violating federal or state environmental protections? How many similar cases have you brought during your tenure? Please identify each such case brought under your tenure, the nature of the violation alleged, and the result achieved, including any penalties assessed and collected.

I do not know how many cases were brought by my predecessor. The Department of Environmental Quality is primarily responsible for implementing and enforcing environmental laws in Oklahoma. The Office of Attorney General has historically had a limited role, compared to the Department of Environmental Quality, in litigating environmental enforcement cases. Information about environmental cases attorneys in my office have litigated during my tenure is included in this response.

122. Do the Oklahoma Strong PAC and Liberty 2.0 Super PAC continue to operate from your state campaign headquarters in Tulsa? What is your connection to either of these political action committees? Do any of your former campaign employees work for either of these political action committees, if so, who and for what period of time?

It is my understanding that both entities have been wound down. I previously served as Honorary Chairman of Oklahoma Strong PAC, I have not served in any similar role with Liberty 2.0. My understanding is that there have been common vendors between Oklahoma Strong PAC and my previous campaigns, but I am not personally aware of any contracts those

vendors might have with the PACs, so your question regarding the details of any such relationships would need to be directed to the PACs or the vendors.

123. How much money have fossil fuel interests given to the Republican Attorneys Generals Association during the duration of your service in the leadership of that organization?

Other issues

Records of fundraising for that organization are kept with the staff of the Republican Attorneys General Association, and are also disclosed on campaign finance reports filed by that entity. I am not aware how much money has been donated to RAGA or from whom.

124. At a time of state budget cuts in Oklahoma, why did the attorney general's office expenditures increase from \$28 million to \$37.5 million under your leadership?

The budget cuts you refer to relate to reductions in the appropriations that each agency receives from the Legislature. I believe the Office of Attorney General has seen its appropriation from the Legislature cut every year since 2014, culminating in an appropriation of \$0 this last fiscal year. What can lead to confusion is the fact that the appropriation from the Legislature makes up only a portion of the Office of Attorney General's budget, and the Office's budget and expenditures can fluctuate greatly year over year depending on the timing of case settlements and related distributions. For example in fiscal year 2014, the Attorney General's Office distributed higher than normal case settlement funds that inflated the budget over typical levels. Conversely, that total came down in fiscal years 2015 and 2016. Thus, fluctuations such as the one assumed by your question do not accurately reflect the size of the Office's budget. In my tenure as Attorney General, the Oklahoma Office of the Attorney General streamlined legal services for dozens of agencies, returned \$29 million to the General Revenue Fund, distributed mortgage settlement restitution funds to impacted citizens, strengthened tobacco enforcement, and led the Office in such a fiscally responsible manner that the Office was able to forego all \$6.4 million in state-appropriated operating funds for fiscal year 2017--that in addition to the Office having its annual appropriation cut in every prior year. The Office of Attorney General was the only state agency to voluntarily do this. During my tenure, the Office assumed the statutory duties of the Human Rights Commission through our Office of Civil Rights Enforcement, strengthened tobacco settlement enforcement efforts, and launched the Solicitor General's Unit. The Office also increased by one third the number

of agencies, commissions, or boards which it represents. This has led to a precipitous decline in state agency usage of costly private counsel. It is these and other efforts that have permitted the Office to contribute approximately \$29 million to the General Revenue Fund over the last six years.

125. Do you think the upwind or upstream states of Oklahoma would be willing to impose more stringent environmental protections because of the adverse impacts certain activities in their state might have on Oklahomans? Have they ever done so on their own?

The Department of Environmental Quality has primary responsibility for implementing and enforcing environmental laws in Oklahoma. As Attorney General, I do not have responsibility or authority for setting environmental policy for the State and do not have the specific information at issue in this question.

126. Do your views on federalism expand beyond the EPA? For example, were you against the recently passed legislation that pre-empted states from labeling GMO foods? If not, why not?

I did not have an opinion on the GMO labeling legislation, however, I view that it is a similar matter to the Lautenberg Act reforms to TSCA which we supported despite its pre-empting state regulation, because it provides certainty nation-wide to regulations and often a consensus federal standard.

127. You campaigned in 2010 against a “one-size-fits-all strategy” towards environmental protection. That phrase is sometimes used to imply that whether American children should be adequately - or inadequately - protected against poisonous air, water and food should be based on the political jurisdiction in which they happen to live. Is that what you meant - that air and water health standards should vary from state to state? Do children’s hearts or senior’s lungs vary in their vulnerability to pollution between Oklahomans and Californians? Do you accept the premise at the heart of the Clean Air and Clean Water Acts that every American, wherever they live, should have a science based, legally guaranteed right to clean air, pure water and healthy food? Or do you think these decisions should be made by local politicians based on interest group lobbying?

I strongly believe in the importance of clean air, water, and land. Many of the environmental laws passed by Congress, including the Clean Air Act, are based on a framework of cooperative federalism by which states

administer programs authorized or delegated by EPA in order to implement these authorities. If confirmed, I will support open and transparent regulatory processes and base decisions on sound science in accordance with EPA's legal authorities.

128. How do you plan to consider costs in reviewing national ambient air quality standards? Do you agree with Justice Scalia's opinion in *Whitman v. American Trucking Associations* that it is "fairly clear that [the Clean Air Act] does not permit the EPA to consider costs in setting the standards."

I agree that the Supreme Court's decision in *Whitman v. American Trucking Associations* confirms that the Clean Air Act does not allow the Administrator to consider costs in setting the NAAQS.

129. Do you believe that economic or cost-benefit analysis should ever be used to decide how much toxic pollution children should breathe or drink; many lives EPA should save; how many children should get cancer or asthma just because they live near a polluting factory?

As I stated in my testimony, I fundamentally believe in EPA's core mission of protecting the American people. Environmental statutes, such as the Clean Air Act and the Clean Water Act, prescribe certain instances where a cost-benefit analysis may be considered in a rulemaking. If confirmed, I commit to fully carry out EPA's core mission and follow the law as provided by Congress.

130. Every year during your tenure as Oklahoma Attorney General, the American Lung Association gave Oklahoma counties a failing grade for not meeting ozone air pollution health standards. In fact, your home town of Tulsa is ranked 18th out of 228 metropolitan areas for high alert ozone days. Are you concerned about the impacts of soot and smog pollution on Oklahoma citizens? What efforts have you undertaken as Oklahoma Attorney General to protect Oklahomans from soot and smog pollution?

While I am concerned about children's health, matters of the sort you reference would be handled by Oklahoma's environmental regulators at the Department of Environmental Quality and the Oklahoma Water Resources Board.

131. If confirmed, do you commit to protecting scientific research conducted and funded by the EPA? Will you continue EPA's long-standing practice of protecting the confidentiality of health records of individual patients that participate in scientific studies?

If confirmed, it will look forward to working with EPA's scientists and the thousands of other public servants at EPA. If confirmed, I would expect to learn more about the existing practice and relevant legal authorities concerning the confidentiality of scientific data before taking action.

132. Do you agree with this statement from NASA: "97 percent or more of actively publishing climate scientists agree: Climate-warming trends over the past century are extremely likely due to human activities." If not, please explain why you do not agree.

I have no reason to disagree with NASA's statement, although I have not made any attempt to independently verify its accuracy.

133. Please provide a list of all the cases, briefs and other legal actions that your office has filed while you have served as attorney general.

Please see attached list.

134. How many legal cases have you filed, or joined others in filing, against the EPA? Please provide a full list with the outcome of each case, including those cases in which the court disagreed with your argument, agreed with your argument, and those in which the court refused to hear the matter.

Enclosed is a list of the relevant cases. The relevant court opinions, judgments, or orders are the best source of information about how these cases were disposed.

135. It is my understanding that you currently have nine cases pending against the EPA on behalf of the State of Oklahoma. Is this correct? Will you recuse yourself from participation in these cases if you are confirmed? If not, why not? Will you recuse yourself from settlement discussions? If not, why not? Will you recuse yourself from decision making on altering or revising the regulations that are impacted by these pending cases? If not, why not? What are the recusal requirements of the Oklahoma Bar Association governing similar situations?

Please see attached list of cases. Immediately upon my nomination, I was walled off from all involvement in any litigation or other matters the State of Oklahoma is pursuing involving the EPA. I have disclosed relevant matters to the Office of Government Ethics and EPA ethics officials. As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules.

136. If confirmed, do you plan on proposing or advocating for budget cuts to the EPA's FY 2018 budget? If so, in which programs would you reduce funding? Would you target the EPA's research programs? Are there areas of agency action where you believe additional financial resources are needed?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

137. It is my understanding that prior to you taking office, there was an Environmental Protection Unit within the Oklahoma Attorney General's office. Is that correct?

The Oklahoma Department of Environmental Quality is the State agency responsible for implementing and enforcing environmental laws in Oklahoma.

138. It is my understanding that after you took office, the Environmental Protection Unit within the Oklahoma Attorney General's office was eliminated. Is that correct? Can you explain why the work of this unit was discontinued? Did the work continue in another section of your office? If so, who continued to do that work and for what period of time?

My office continues to employ attorneys vested with responsibilities related to environmental protection, including the attorney who served as the lead attorney on the previous attorney general's "environmental protection unit." That attorney's responsibilities remain unchanged (he has been promoted, in fact), and he pursues exactly the kind of cases that he pursued under the previous attorney general. The only thing that changed was the internal

organization of the attorneys vested with those responsibilities, because I concluded (consistent with the practices of every attorney general in the State's history but for my immediate predecessor) that it was not operationally efficient to have a separate unit for such work. Thus, I chose to house that work in the Office's Public Protection Unit and then later in the Solicitor General's Unit. As I explained in my testimony to the committee, my office continues to pursue environmental cases. I do not possess lists of cases pursued by my predecessor so I cannot provide the comparative that you request. I am aware that many environmental cases take many, many years to litigate to completion, so some of the actions that my Office continues to pursue were initiated prior to my taking office. Please see attached list of cases.

139. In your cases against the EPA's Mercury and Air Toxics Rule, who served as your scientific advisor for the case?

The Office of Attorney General does not have a science advisor.

140. Please provide your definition of cooperative federalism.

Cooperative federalism occurs when the federal government works cooperatively with state and local governments to address issues of national concern. Federalism is not cooperative when the federal government mandates or coerces state and local governments into effectuating federal policies.

141. Provide examples of times the EPA has intervened and required a state to do more than the state intended and you supported the EPA's actions.

The water quality crisis in Flint is one where EPA should have acted faster in accordance with its legal authorities in consultation with the State.

142. You are quoted in an interview this past November saying "we hope there is going to be regulatory rollback...Well when you look at the EPA, and the role it's played over the last several years, there's going to be substantial change in that agency." Which EPA regulations do you believe should be rolled back? What changes do you believe should occur in the EPA? Which EPA regulations should be maintained?

Based on the limited information provided in the question, I am uncertain what interview it is referring to. However, if confirmed as Administrator, I

will take my responsibility to protect human health and the environment for all Americans with the highest possible dedication and commitment. The actions undertaken by the Office of Attorney General challenging certain EPA regulations have been because EPA exceeded its legal authorities as established by Congress and interpreted by the courts. Regulations that are not on solid legal foundation and that cannot survive judicial review will not result in environmental protections.

143. In your testimony before the Senate Environment and Public Works Committee in May 2015, you stated that the EPA “has played an important role in addressing water and air quality issues that transverse state lines.” Since you became attorney general, hasn’t your state sued against EPA regulations that address cross-state air and water pollution? What are the most significant sources of interstate pollution and what are the most important actions the EPA can take to address them?

As my testimony indicates, I firmly believe that the EPA plays an important role in addressing interstate water and air quality issues, but it must do so within the bounds of its legal authority. The actions undertaken by the Office of Attorney General challenging certain EPA regulations have been because EPA exceeded its legal authorities as established by Congress and interpreted by the courts.

144. Do you believe the EPA has, in your words “exceeded the constraints placed upon the agency by Congress” by issuing the Mercury and Air Toxics Rule? If so, please explain.

Based on the limited information in the question, the source or context of the quote to which the question refers is not readily apparent. Twenty one states filed a petition with the Supreme Court to review EPA’s Mercury Air Toxics Standards. The Supreme Court held that the EPA was required to consider costs as part of its decision whether to regulate power plants under section 112. I agree with the Supreme Court’s conclusion.

145. Do you support states taking further public health protective actions beyond those required by EPA regulations?

Yes—if authorized under the law and not preempted or displaced by federal law.

146. Do you agree with the EPA's legal interpretation of the Clean Water Act and share the view the agency has federal jurisdiction over wetlands and streams that impact the health of downstream navigable waters? If you do not agree, please explain.

The EPA takes a broader view of its jurisdiction under the Clean Water Act than the question suggests. A federal court appeals has held that the EPA's interpretation of its jurisdiction under the Clean Water Act is likely unlawful. I agree with that court's conclusion.

147. Would you explain the basis for your recent challenges to EPA's finding that it is appropriate and necessary to regulate the emissions of carbon dioxide and hazardous air pollutants from power plants?

The particular matters being asked about are unclear from the limited information in the question. As discussed in response to Questions 27 and 35, the state of Oklahoma, along with many other states, filed petitions for review challenging EPA regulations in matters where EPA has exceeded its statutory authority as established by Congress and interpreted by the courts. The standard for regulating under section 111 of the Clean Air Act is whether in the Administrator's judgment a category of sources "causes, or contributes significantly, to air pollution which may reasonably be anticipated to endanger public health or welfare." The standard for regulating under section 112(n) of the Clean Air Act is if "the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this subparagraph." The briefs filed by the state petitioners are the best statements of the legal arguments being made and speak for themselves.

148. As attorney general, what types of environmental justice cases have you pursued? Please provide a list of cases and outcomes. What is your view of EPA's mission in regard to environmental justice?

As discussed elsewhere in these responses, the Oklahoma Department of Environmental Quality is the state agency with primary responsibility for implementing and enforcing environmental laws in Oklahoma. As I testified, I believe the Administrator plays an important role regarding environmental justice. Attached is a list of environmental cases brought under my tenure.

149. In a 2013 press statement, you stated “the evidence is clear that the current ethanol fuel mandate is unworkable.” Would you explain what you meant at this time?

Based on the limited information in the question, the context of the quote referenced in the question is not readily apparent. If confirmed, my duty as EPA Administrator would be to enforce the laws passed by this body.

150. In your joint brief against the Mercury and Air Toxics Standards, it stated “human exposure to methylmercury resulting from coal fired EGUs (Electric Generating Units) is exceedingly small.” What is the scientific basis for this statement? Do you continue to agree with this assessment?

Based on the limited information in the question, the source or context of the quote to which the question refers is not readily apparent. Twenty one states filed a petition with the Supreme Court to review EPA’s Mercury Air Toxics Standards. The legal question in that case was a narrow one focused on whether EPA was required to consider costs before it imposed regulations on power plants under section 112 of the Clean Air Act.

151. The EPA is responsible for administering two of the nation's most important infrastructure investment programs- the Clean Water and Safe Drinking Water State Revolving Loan Funds (SRFs). Unfortunately, water and sewer infrastructure in this country continues to deteriorate and investment is sorely needed. The American Society of Civil Engineers rates our wastewater and drinking water infrastructure a “D.” If confirmed, what will you do to ensure that the federal government is adequately investing in our nation’s wastewater and drinking water infrastructure?

If confirmed, I will continue support for the Clean Water State Revolving Loan Funds and the new Water Infrastructure Financing Innovation Act loan program. In addition, I would continue to implement EPA's Integrated Planning Framework to provide municipalities with flexibility to prioritize actions they take to come into compliance.

Senator Duckworth:

1. During your confirmation hearing, we discussed the ongoing petitions requesting EPA initiate a rulemaking to reconsider or change the regulations identifying refiners and importers of gasolines and diesel fuel as the entities responsible for complying with the annual percentage standards adopted under the Renewable Fuel Standard (RFS) program. I am specifically concerned with harmful proposals to move the point of obligation from refiners and importers to entities that blend renewable fuel into transportation fuel. Moving the point of obligation from refiners to blenders would disrupt a component of the RFS program that has worked well for the past 10 years. This harmful proposal is opposed by a broad range of stakeholders, including organizations that represent blenders, and it would undermine Congress' goal in creating the RFS program by likely decreasing the production, distribution and use of renewable fuels in the United States.

- If confirmed as EPA Administrator, will you commit to denying any petition requesting EPA change the RFS point of obligation, including requests to move the point of obligation from refiners to blenders?
- Please provide all statements you have made, whether in writing or verbally, expressing your view on the RFS point of obligation.

As I indicated in my testimony, the EPA's RIN framework is currently the subject of a pending notice-and-comment rulemaking. If confirmed as Administrator, I would take care to administer the RFS program, including the RIN framework, in accordance with Congress's statutory objectives, and based on the evidence in the EPA's administrative record, as well as the expertise of EPA staff and the expertise of other federal agencies relevant to the RIN framework and affected markets. The EPA already has entered into a "memorandum of understanding" with the CFTC, "on the sharing of information available to EPA related to the functioning of renewable fuel and related markets."

Senator Gillibrand:

1. Assuming that costs should be considered in rulemakings, do you believe that externality costs – for example costs to society from impacts of a pollutant -- should be considered in addition to the financial costs of compliance?

As I stated at the hearing, costs are important in the rulemaking process and the Courts have recognized that important factor. Environmental statutes, such as the Clean Air Act, prescribe when costs should be considered in a rulemaking. If confirmed, I commit to fully follow the law as provided by Congress.

2. New York has the toughest acid rain regulations for power plants in the nation, but the acid rain that has affected the Adirondacks is predominately caused by emissions from Midwestern coal-fired power plants. The scientific data collected as part of a long-term and robust acid rain monitoring program of Adirondack lakes and streams provides the evidence that the sulfur dioxide trading program under the Clean Air Act has been a cost effective method to reduce sulfur dioxide from the atmosphere. This regulatory strategy was implemented without a detrimental economic effect. Is the regulatory strategy outlined above: strong federal standards coupled with even stronger state standards an example of the “meaningful role” you envision for EPA and the “useful role of the states?”

As I stated at the hearing, costs are very important in the rulemaking process and the Courts have recognized that important factor. Environmental statutes, such as the Clean Air Act, prescribe when costs should be considered in a rulemaking. If confirmed, I commit to fully follow the law as provided by Congress.

3. EPA promulgated the Cross State Air Pollution Rule (CSAPR) in 2011 and an update to the rule in September 2016. How will you implement CSAPR and the update rules?

The Cross-State Air Pollution Rule is a regulation that is currently in effect and, as such, constitutes a binding regulation. So long as that rule remains in force, I will faithfully execute the law and enforce obligations under it.

4. What strategy will you pursue to ensure upwind emissions do not affect the ability of downwind states to meet air quality standards, per Section 110(a)(2)(D) of the Clean Air Act?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. If I am confirmed as Administrator, I will exercise my authority in this area consistent with Congress's intent in enacting the Act. Specifically with respect to Section 110(a)(2)(D) and the "good neighbor" obligations of Section 110, I intend to engage in a transparent process that will allow states to have a meaningful opportunity to understand their obligations with regard to reducing emissions that cause or contribute to nonattainment or interference with maintenance in other states through the SIP process and to act consistent with my authority under Section 110(c) if states fail to do so.

5. What is EPA's role in resolving disputes regarding the transport of pollutants between states?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. I strongly believe in states working collaboratively to address crossborder environmental challenges and did so when I was the Attorney General of Oklahoma, including negotiating a historic agreement with my Democratic counterpart in the State of Arkansas to reduce pollutants into the scenic Illinois River. As Administrator, I intend to provide assistance to states as they work collaboratively in these issues. Where the Act contemplates a more direct role for EPA, such as with respect to Section 110(a)(2)(D) and the "good neighbor" obligations of Section 110, I intend to engage in a transparent process that will allow states to have a meaningful opportunity to understand their obligations with regard to reducing emissions that cause or contribute to nonattainment or interference with maintenance in other states through the SIP process

6. What specific actions have you taken as Oklahoma Attorney General to protect Oklahoma's children from exposure to air pollution?

While I am also concerned about children's health, environmental regulation in Oklahoma is the responsibility of Oklahoma's environmental regulators at agencies like the Oklahoma Department of Environmental Quality. That agency would likely be better situated to answer your question by actions taken by the State with regard to air pollution.

7. Does state sovereignty include a state's authority to combat impacts to air and water from pollution generated in other states?

Yes.

8. The EPA Clean Air Science Advisory Committee currently fills a role that The Clean Air Act requires; this role is that of an independent scientific committee to advise the Administrator regarding any possible revisions to the national standards (NAAQS). That advisory committee has stated on record that the ozone NAAQS should be more protective than the current standards. Will you follow the advice of the advisory committee as Administrator?

I agree that the Clean Air Act assigns the advisory committee a role in advising the Administrator regarding the promulgation and revision of NAAQS. If confirmed as Administrator, I will follow a transparent process that is legally and scientifically sound in all NAAQS decisions, including consideration of the views of the advisory committee.

9. What role will the opinions of that advisory committee play in any decision-making you might have to do regarding review of and revisions to the NAAQS?

I agree that the Clean Air Act assigns the advisory committee a role in advising the Administrator regarding the promulgation and revision of NAAQS. If confirmed as Administrator, I will follow a transparent process that is legally and scientifically sound in all NAAQS decisions, including consideration of the views of the advisory committee.

10. In the April 22, 2016 State Petitioners' Opening Brief that you signed seeking to vacate EPA's primary NAAQS of 70 ppm, you wrote that "that EPA must consider the burden of a NAAQS." What did you mean by the burden of a NAAQS?

The Clean Air Act requires the Administrator to establish NAAQS that protect public health and welfare from adverse effects, allowing an adequate margin of safety, and to revise those standards as appropriate. This includes establishing NAAQS at a level that is "requisite," which the Supreme Court has interpreted as being neither more nor less stringent than necessary to protect public health. The State Petitioners' Opening Brief, particularly in Section II of the Argument portion, the part of the brief to which the quotation in your question is relevant, argues that the ozone NAAQS is arbitrary and capricious because it fails to interpret the Act in a manner that ensures the standard is "requisite." As I have explained elsewhere in my testimony to the Committee and in response to the Committee's written questions, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in an advocacy

capacity. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

11.What is the burden on individuals who are exposed to, and suffer health effects from, air pollution if NAAQS are not strong enough to protect public health?

The Clean Air Act requires the Administrator to establish NAAQS that protect public health and welfare from adverse effects, allowing an adequate margin of safety, and to revise those standards as appropriate. Individuals exposed to pollutant concentrations that are above the NAAQS may suffer adverse health effects, the specifics of which vary depending on the pollutant at issue.

12.How will you take into consideration the cost of pollution on human health when taking regulatory action?

As I stated in my testimony, if confirmed, my primary goal would be to protect the American people through lawful regulations. I also indicated at the hearing that costs are very important in the rulemaking process and the Courts have recognized that important factor. I understand environmental statutes, such as the Clean Air Act and Clean Water Act, prescribe when costs should be considered in the rulemaking process. If confirmed, I commit to fully follow the law as provided by Congress.

13.New York is very concerned with the interstate transport of ozone and particulate matter, which cause death and illness in our state and damages our natural resources, but also interferes with New York's ability to meet its legal obligation to attain the national standards set by EPA. Can ground-level ozone or its precursor, nitrogen oxides, can be generated in one state and reduce air quality in another state?

Yes.

14.Can fine particulate matter or its precursors, nitrogen oxides and sulfur dioxide, be generated in one state and reduce air quality in another state?

Yes.

15.EPA's regulatory impact analysis enumerated numerous important categories of mercury benefits that the agency found couldn't be monetized, such as the impacts of mercury on non-IQ neurological impacts (including developmental

delays, effects on attention/behavior, effects on motor skills, effects on memory); cardiovascular impacts; genotoxic, immunologic, and other toxic effects.

- Do you agree that mercury has these impacts?
- Do you agree that the benefits of reducing these impacts are valuable?
- Do you think that avoided harms, like reducing childhood development delays, need to be monetized to count as part of a cost-benefit analysis?
- Do you agree that consideration of a monetized cost-benefit analysis that does not include these benefits because they cannot be monetized is an incomplete picture of the costs and benefits of reducing mercury emissions?

I agree that as Administrator, it is appropriate to consider both the monetized benefits of regulation and benefits that cannot be monetized. Likewise, where appropriate in light of Congress's intent in enacting each Clean Air Act provision, I agree that it is appropriate to consider both the monetized costs of regulation and any other negative impacts, regardless of whether those can be monetized. If I am confirmed as Administrator, I will exercise my authority consistent with Congress's intent in enacting the Act.

16. In your comments at the EPW nomination hearing, you claimed that your challenges to the mercury standards were entirely procedural in nature.

- In your brief challenging the original mercury standard, you asserted that “the record does not support EPA’s findings that mercury, non-mercury HAP metals, and acid gas HAPs pose public health hazards.” Explain how this is a procedural claim.
- In your brief challenging the original mercury standard, you asserted that “EPA’s EGU MACT standards are unlawful under §112(n)(1)(A).” Explain how this is a procedural claim.
- In signing the original petitioners’ brief, were you just advocating for a client? Or do you continue to believe all the positions argued in the original petitioners’ brief are correct?
- In your brief challenging EPA’s supplemental finding, you asserted that “EPA must consider costs in relation to benefits to justify its ‘appropriate and necessary’ determination.” Explain how this is a procedural claim.
- In your brief challenging EPA’s supplemental finding, you asserted that EPA’s “‘alternative’ benefit-cost approach is also invalid because it is based on the ‘Co-Benefits’ of reducing pollutants other than HAPs.” Explain how this is a procedural claim.
- In your brief challenging EPA’s supplemental finding, you asserted that “EPA’s refusal to consider alternative control strategies and all relevant costs, is contrary

to the statute and the Supreme Court's direction." Explain how this is a procedural claim.

In my testimony, when I stated that Oklahoma's challenges were procedural in nature, I was referring to whether EPA acted consistent with law and the record in following the procedure set forth for regulating electric utility steam generating units under Section 112(n) of the Act. That procedure required EPA, taking into account certain information, to determine whether regulating the sources under Section 112 is appropriate and necessary.

17. When filing briefs for Oklahoma in the Mercury and Air Toxics Standard litigation, Clean Power Plan litigation, and other litigation against EPA that you joined as Attorney General, were you just advocating for a client? Or do you continue to believe all the positions argued in your briefs are correct?

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in an advocacy capacity. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

18. The Great Lakes Restoration Initiative (GLRI) was launched in 2010 to accelerate efforts to protect and restore the largest system of fresh surface water in the world — the Great Lakes. EPA is a critical member and lead of the GLRI Task Force and Regional Working Group. This coordination in partnership with the states has produced unprecedented results, with GLRI resources funding over 2,000 projects to improve water quality, protecting and restoring native habitat and species, preventing and controlling invasive species, and addressing other Great Lakes environmental problems. Under your leadership, will the GLRI continue to be a top priority?

If confirmed, I will continue EPA's support for the Great Lakes Restoration Initiative, which was formally authorized by Congress in December 2016.

19. Will you support an annual appropriation of at least \$300 million for the Great Lakes Restoration Initiative?

I note that \$300 million has been the annual appropriation for the Great Lakes Restoration Initiative for the past several years, even though the prior Administration proposed to cut that funding to \$250 million. Three hundred

million also is the Congressional authorized level of funding. If confirmed, I will take into account that funding history and Congressional authorization when making recommendations to the Office of Management and Budget regarding EPA's appropriations.

20. New York is suffering from infestations of invasive species such as the emerald ash borer and zebra mussel, which have large impacts in the state. EPA has been an important ally in our efforts, and has a number of programs that fight invasive species. What is your view on EPA's role in fighting invasive species, and do you believe EPA should commit more resources, fewer resources, or about the same amount of resources to this issue?

I am not aware of the state of invasive species in New York. If confirmed, I would expect to be briefed by staff on this issue before taking any action consistent with EPA's legal authorities.

21. Does climate change have an impact on the spread of invasive species, such as the emerald ash borer, in New York State?

I am not familiar with the state of invasive species in New York.

22. Should states continue to have the sovereign authority to set their own ballast water discharge standards to protect the environment from the spread of invasive species?

The issue of federal preemption of state ballast water discharge regulations is a question for Congress, not the Administrator of the EPA. If confirmed, I will carry out the authorities granted to EPA by Congress.

23. Approximately 200 miles of the Hudson River are classified by the EPA as one of the largest Superfund sites in the country when 1.3 million pounds of PCBs were discharged by two General Electric plants into the Hudson River over a 30-year period. The EPA has required targeted dredging between 2009 and 2015. Last year, the Commissioner of the New York State Department of Environmental Conservation repeatedly advised the EPA of the State's concerns that EPA's remedy for the Hudson River left in place substantial levels of PCB contamination. The EPA is slated to release its five-year review of the project this spring. Independent and objective quantitative analyses are essential in order to determine whether the remedy is protective of human health and the environment. Will you agree to work with New York State to evaluate the sufficiency of the remedy selected in the EPA's Record of Decision?

I appreciated hearing about this Superfund site in our meeting and your staff followed up with us concerning the consent decree in this situation. If confirmed, I intend for EPA to work collaboratively with New York State to assess the sufficiency of the remedy. I understand that EPA intends to provide data and analysis related to a review of the remedy to the site related to all stakeholders, including New York, federal partners, and the environmental community. I also understand the State and other stakeholders will have the opportunity to present information to EPA through that process. I confirmed, I would work to ensure that EPA's decision will be informed by such information provided through such process.

24. With regard to the Hudson River, will you thoroughly quantify the trends based on all available fish, water, and sediment data and make reasonable and conservative assumptions regarding future trends?

I believe EPA actions should be based on sound science and taken in accordance with applicable statutory requirements, including consideration such as those you identify.

25. As of 2014, New York had the third largest number of Superfund sites among all states, with 87 sites. One in four Americans lives within three miles of a contaminated disposal site that poses serious risks to human health and the environment. In recent years, EPA has allocated approximately \$250 million per year for Superfund cleanup. The agency estimates that much greater amounts – from \$355 million to over \$600 million per year – will be needed in the future. What changes should be made to the Superfund statute to help facilitate these important clean-up projects?

If confirmed, I would expect to prioritize the cleanup of contaminated land. Prior to suggesting any legislative proposals, I would expect to be briefed by staff and to receive the views of relevant stakeholders on ways to improve the operation of the Superfund program, including any changes to its statutory authority, if confirmed.

26. Do you support restoring the tax on petroleum products that funded the Superfund trust fund, but was discontinued in 1995?

This is a matter for Congress to decide.

27. What would you do, if confirmed, to facilitate and improve Superfund clean-ups in the absence of new legislation?

If confirmed, I would expect to prioritize the cleanup of contaminated land. I would also expect to be briefed by staff and to receive the views of relevant

stakeholders on ways to improve the operation of the Superfund program, absent new statutory authority, if confirmed. I also understand the Government Accountability Office and the EPA Inspector General also regularly review the operation and activities of the Superfund program, and I would expect to look to their recommendations for additional areas for improvement, if confirmed.

28. The EPA's Brownfields Program provides grants and technical assistance to assess, clean up, and reuse contaminated properties. Cleaning up and reinvesting in brownfields protects human health and the environment, reduces blight, and takes development pressures off agricultural and other working lands. Through fiscal year 2013, on average, \$17.79 was leveraged for each EPA Brownfields dollar and 7.3 jobs leveraged per \$100,000 of EPA brownfields funds expended on assessment, cleanup, and revolving loan fund cooperative agreements. Unfortunately, only about 1/3 of all applicants to the program are successful. Do you support expanding the resources for the Brownfields Program to adequately support these communities in need?

I am aware EPA's Brownfields program has enjoyed bipartisan support in Congress. If confirmed as Administrator, I expect cleanup of contaminated land to be among my priorities and to be briefed by staff about the Brownfields programs activities and resources before taking any action.

29. In 2005, New York State, Connecticut, and the EPA and Army Corps reached an agreement to eliminate or reduce the amount of dredged sediment dumped in the open waters of Long Island Sound. The New York State Department of Environmental Conservation and Department of State have repeatedly urged the EPA and Army Corps not to move forward with the permanent designation of an open water dumping site in Eastern Long Island Sound, raising concerns that the sediment has not been properly tested and could negatively impact the economic and environmental state of Long Island Sound, which was designated in 1987 by Congress as an Estuary Of National Significance. Will you work to enforce NYS's right to protect Long Island Sound from additional open water dumping of dredged material?

The designation by EPA of an area as a site for dredged material disposal must follow the rigorous process set forth in the Marine Protection, Research, and Sanctuaries Act to ensure protection of the environment. As I stated in my testimony before the Committee, I support following the administrative processes set forth in law, including the National Environmental Policy Act, to ensure that EPA's statutory responsibilities are fully carried out.

30. Will you commit to assisting the states with determining upland alternatives to the open water disposal of dredged material?

Disposal of dredged material is not an EPA mission or responsibility. That lies with the Corps of Engineers.

31. Will you continue the Long Island Sound Study office and ensure it receives the necessary resources from EPA?

As I noted in my testimony before the Committee, I support collaborative efforts to achieve environmental protection. The Long Island Sound Study is a collaborative effort among EPA, New York, and Connecticut. EPA's Long Island Sound Study office was authorized by Congress in 1990 under section 119 of the Clean Water Act. If confirmed, I will carry out all responsibilities given to EPA by Congress.

32. Will you support annual appropriations of at least \$10 million for the EPA's Long Island Sound geographic program?

If confirmed, I will seek budgetary resources to carry out all responsibilities given to EPA by Congress. I note that the most recent appropriation for the Long Island Sound program was about \$3.9 million and the most recent budget request was about \$2.9 million.

33. How do you intend to handle existing EPA enforcement actions initiated prior to January 20, 2017?

I am unfamiliar with the specific details of the actions referenced in the question. I would expect to be briefed by staff, in consultation with the Department of Justice as appropriate, before taking any action.

34. Municipal landfills that are non-compliant with the Resource Conservation and Recovery Act (RCRA) have created public health and environmental problems on the island of Puerto Rico, contributing to water, ground and air contamination. How will you address non-compliant landfills in Puerto Rico?

I am not familiar with the details of this specific issues but, if confirmed as Administrator, I would expect to be briefed by staff about EPA's ongoing involvement and role at these sites. If confirmed, I expect to make cleanup of contaminated land one of my priorities. I also believe in the importance of hearing the views of all stakeholders and would welcome the opportunity to discuss this further.

35. I have been working with EPA Region 2 to address the significant environment and public health crisis in the Caño Martin Peña in San Juan, Puerto Rico. As we discussed during our meeting in my office, EPA must take aggressive action to work with the Army Corps of Engineers to clean up hazardous waste, which is threatening the lives of children and families, who do not have full representation in the Congress. Will you continue EPA's aggressive push to clean up the Caño?

As discussed, I am not familiar with the details of this specific matter but, if confirmed as Administrator, I would expect to be briefed by staff about EPA's ongoing involvement and role at this site. If confirmed, I expect to make cleanup of contaminated land one of my priorities.

36. If confirmed, will you visit San Juan and tour Caño Martin Peña during your first year as Administrator?

As we discussed in your office, I would be pleased to accompany you on this trip at a mutually convenient time if I am confirmed as Administrator.

37. What is the scientific basis for sea level rise, which we have experienced along the coast of New York State?

If confirmed as Administrator, I will work to ensure EPA regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the changes in our climate and sea level rise.

38. Do you agree with the National Climate Assessment that human-induced climate change has already increased the number and strength of extreme weather events?

I am aware of the broad range of views within the scientific community regarding the relationship between human activity on changes in the climate and any resulting impact on extreme weather events. If confirmed as Administrator, I will work to ensure EPA regulatory actions are based on the most up to date and objective scientific data.

39. Why did you eliminate the environmental protection unit of the Oklahoma Attorney General's office?

My office continues to employ attorneys vested with responsibilities related to environmental protection, including the attorney who served as the lead attorney on the previous attorney general's "environmental protection unit." That attorney's responsibilities remain unchanged (he has been promoted, in fact), and he pursues exactly the kind of cases that he pursued under the

previous attorney general. The only thing that changed was the internal organization of those vested with those responsibilities, because I concluded (consistent with the practices of every attorney general in the State's history but for my immediate predecessor) that it was not operationally efficient to have a separate unit for such work. Thus, I chose to house that work in the Office's Public Protection Unit and then later in the Solicitor General's Unit.

40. How many staff does the Oklahoma Attorney General's office have dedicated, full time, to enforcing federal environmental laws in Oklahoma? Do not include in that number staff working on lawsuits against the EPA.

The Office of the Attorney General's employs seven attorneys whose responsibilities include environmental-related matters, with a primary focus on enforcing Oklahoma law, rather than the federal law that your question presumes. These duties substantially include representing the environmental agencies of the State of Oklahoma or providing counsel to those environmental agencies in actions they determine to pursue.

41. Perfluorooctanoic acid (PFOA) is listed as an unregulated contaminant under the Safe Drinking Water Act. PFOA was discovered in the municipal water supply and private wells in the Village of Hoosick Falls and Towns of Hoosick and Petersburg, NY and in North Bennington, Pownal, Vermont. Perfluorooctane sulfonate (PFOS) was found in Newburgh New York.

In 2014, PFOA and PFOS were found in public drinking water wells in Horsham, Warminster, and Warrington, Pennsylvania. They were found by the federal Environmental Protection Agency, as part of the Unregulated Contaminant Monitoring Rule. The amounts of PFOA and PFOS found in the public wells in the area were among the 10 highest samples anywhere in the country based on the provisional health advisory level set by EPA in 2009.

In 2009, EPA set a provisional health advisory level of .4 parts per billion. In May, 2016, EPA set a Lifetime Health Advisory level for PFOA at 70 parts per trillion. How will you work to ensure that drinking water sources are monitored for PFOA and PFOS, particularly in small communities under 10,000 people?

If confirmed, I will carry out the authorities and responsibilities given to EPA by Congress. Congress did not make monitoring eligible for Safe Drinking Water Act State Revolving Loan Fund assistance because it is considered operation and maintenance that is local responsibility. However, Congress recently authorized a grant program to assist small and disadvantaged communities provide safe drinking water. Testing of unregulated

contaminants is eligible for assistance under this authority. If funding is provided by Congress, I will carry out that program.

42.How will EPA continue to evaluate the health effects of PFOA on all communities that were exposed, in particular vulnerable populations including infants and fetuses during pregnancy?

As I stated at my confirmation hearing, PFOA is a chemical substance that the Agency should address quickly and I will look to continue evaluating the health effects of PFOA through TSCA and the Safe Drinking Water Act.

43.Will you work collaboratively with other agencies, including the Centers for Disease Control and Prevention, the National Institutes of Health, and the Department of Defense, to ensure that the public is informed about the health effects of contamination?

As I stated at my confirmation hearing I believe collaboration between federal agencies to protect and better inform the public.

44.Will you work collaboratively with states and local governments to ensure that information on PFOA and PFOS are communicated in a transparent and timely manner to the public?

Cooperative federalism and collaboration between EPA and officials at the state and local level is something I feel very strongly about and if I am confirmed I will work collaboratively with state and local governments.

45.In the absence of federal drinking water standards, what role should EPA play in assisting communities whose drinking water supplies have become contaminated by PFCs or other emerging contaminants?

Congress recently authorized a grant program to assist small and disadvantaged communities provide safe drinking water. Testing of unregulated contaminants is eligible for assistance under this authority. If confirmed and if funding is provided by Congress, I will carry out that program.

46.The latest EPA survey of capital improvement needs indicates that public water systems need to invest \$384.2 billion on infrastructure improvements over 20 years to ensure the provision of safe tap water. The needs estimate generally excludes costs associated with addressing unregulated contaminants or the costs of replacing lead service lines. What funding level do you view as effective for the

EPA Drinking Water State Revolving Fund (DWSRF) capitalization grant program?

The federal government offers some financial assistance but the vast majority of the investments in public water systems will be made by the public and private entities that own and operate those systems. The Safe Drinking Water Act State Revolving Loan Funds leverage federal investment at about 1.76 to 1. That is, a federal dollar leverages about 1.76 dollars in loan assistance. The new WIFIA program can leverage federal investment at a level of up to 60 to 1. I fully support the Drinking Water SRF and would not support any cuts to that program. However, if Congress provides additional funds I am excited by the opportunities the new WIFIA program presents.

47. How would you use the “precautionary principle” to bring to bear cutting edge science on emerging contaminants to ensure decisions are technically valid, while also not delaying regulatory decisions to wait for every potential detail to be addressed when health impacts may be occurring during the delay?

If confirmed agency decisions will be based on sound science and I will work to protect health and the environment as expeditiously as possible.

48. What is your view on EPA’s role in overseeing response actions undertaken by DOD at U.S. military facilities, including where PFOA, PFOS, or other PFCs may have been released?

EPA's role is governed by the statutory and regulatory authorities, including section 120 of the Comprehensive Environmental Response, Compensation and Liability Act and the National Contingency Plan.

49. As you know, Congress passed a provision in law that exempts hydraulic fracturing from the Safe Drinking Water Act. Do you think that hydraulic fracturing chemicals should be exempt or do you believe that this law has merit?

Article 1 Section 8 of the Constitution vests in Congress the authority to make our nation's laws and, if confirmed, as a member of the Executive Branch I will faithfully execute my duty to implement and enforce the laws written by Congress.

50. How will you address the disproportionate effect of environmental contamination on low-income communities of color?

If confirmed, I will expect to be briefed by staff about EPA's programs and statutory authorities in this area.

Senator Markey:

1. There is tremendous diversity across states in this country, and occasionally states have differences of opinion on how to approach a problem. One of the roles of the federal government is to be an arbiter among states.

- What is your philosophy on how interstate pollution conflicts should be handled?
- Should a state be able to pollute a river for which another state relies on for drinking water?
- What is the EPA's role in resolving interstate pollution conflicts?
- How would you determine when EPA should be involved in interstate pollution disputes?

As I testified in the hearing, I have pursued opportunities to address interstate environmental quality matters. One of the examples I have highlighted is the work that Arkansas Attorney General Dustin McDaniel and I took to address an enforceable water quality standard between Arkansas and Oklahoma. I have also discussed how Texas should be responsible when air quality issues affect Oklahoma and my experience with that. When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA.

2. During the hearing, you repeatedly underscored the need to make regulation "regular" for regulated entities.

- How do you reconcile that goal with the mission of EPA, which is "to protect human health and the environment"?
- If confirmed as EPA Administrator will your highest priorities be to protect human health and the environment?

As I testified, I believe in the rule of law and that process matters. I do not view these as being contrary to EPA's mission to protect human health and the environment.

3. Please list any deductible or nondeductible charitable donations you made in the last three years, including, for each contribution, the name of the recipient and the amount.

I have complied with the reporting obligations from the Office of Government Ethics and the EPW Committee.

4. As attorney general, you made Freedom of Information Act (FOIA) requests, and expected a fast response. Do you commit to respond to FOIAs as quickly as possible, if you are confirmed?

If confirmed, I will commit to tasking my staff with responding to FOIA requests in a timely manner.

5. During Mr. Trump's campaign, there were reports that even volunteers were required to sign non-disclosure agreements. After his election, President-elect Trump's team demanded lists of career officials who worked on climate science issues at the Energy Department and women's and gender issues at the State Department. It is against the law to retaliate against career officials for following lawful policy directives. It is also against the law to interfere with career employees communicating with Congress. I have included a summary of these laws below.

Any suggestion that the incoming administration is targeting career officials for retaliation simply because they worked on policies that the new President disagrees with threatens to create a chilling effect on employees who are simply trying to do their jobs.

5 U.S.C. § 7211, provides that: The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied. Pursuant to 5 U.S.C. § 2302(b)(8), it is a violation of federal law to retaliate against whistleblowers. That law states: Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority ... take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of. ... (A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation... " In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a

Congressional inquiry: Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress.

- If you are confirmed, will you commit to protect the rights of all career employees of the EPA, including their right to speak with Congress?
- Will you commit to communicate employees' whistleblower rights via email to all EPA employees within a week of being sworn in?

If confirmed, I commit to protecting the rights of all EPA employees and will follow the law.

6. The President-elect appears to be planning to ignore the advice he was given by bipartisan ethics experts to divest himself from his business interests. In the United States, he has hundreds of business interests, which include everything from vineyards, golf courses, hotels and casinos. Some of these interests could be impacted by EPA regulations or enforcement actions – for example, Donald Trump's New Jersey casino flunked air pollution tests, his hotel in Chicago has had a Clean Water Act violation and his New Jersey Golf Club violated the Safe Drinking Water Act.

- Do you commit to ensure that no employee of the EPA is pressured to take - or not take - any regulatory or enforcement action or decision because that action or decision would adversely affect business interests associated with the president-elect or his family?
- Considering that the president-elect has stated he will not release his tax returns anytime soon, how will you know exactly what all of the Trump family interests are without his tax returns?

If confirmed as Administrator, I will take care that all environmental laws enacted by Congress are faithfully executed without regard to identity of the owners of any regulated business that might be affected by such execution of the laws.

7. The following series of questions relate to Title 74 Section 20i of the Oklahoma Statutes. As Attorney General of Oklahoma, you were responsible for complying with this law. For your ease of reference, Section 20i is provided below:

74 Okl. St. § 20i (2016)

§ 20i. Legal Representation of Agency or Official of Executive Branch--Contracts

A. An agency or official of the executive branch may obtain legal representation by one or more attorneys by means of one of the following:

1. Employing an attorney as such if otherwise authorized by law;
2. Contracting with the Office of the Attorney General; or
3. If the Attorney General is unable to represent the agency, or official due to a conflict of interest, or the Office of the Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or official, contracting with a private attorney or attorneys pursuant to this section.

B. When entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall select an attorney or attorneys from a list of attorneys maintained by the Attorney General. An agency may contract for legal representation with one or more attorneys who are not on the list only when there is no attorney on the list capable of providing the specific representation and only with the approval of the Attorney General. The list shall include any attorney who desires to furnish services to an agency or official of the executive branch and who has filed a schedule of fees for services with and on a form approved by the Attorney General. An agency or official may agree to deviate from the schedule of fees only with the approval of the Attorney General.

C. Before entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall furnish a copy of the proposed contract to the Attorney General and, if not fully described in the contract, notify the Attorney General of the following:

1. The nature and scope of the representation including, but not limited to, a description of any pending or anticipated litigation or of the transaction requiring representation;
2. The reason or reasons for not obtaining the representation from an attorney employed by the agency or official, if an attorney is employed by the agency or official;
3. The reason or reasons for not obtaining the representation from the Attorney General by contract;
4. The anticipated cost of the representation including the following:
 - a. the basis for or method of calculation of the fee including, when applicable, the hourly rate for each attorney, paralegal, legal assistant, or other person who will perform services under the contract, and
 - b. the basis for and method of calculation of any expenses which will be reimbursed by the agency or official under the contract; and
5. An estimate of the anticipated duration of the contract.

D. Before entering into a contract for legal representation by one or more private attorneys where the agency has reason to believe that the case, transaction or matter will equal or exceed Twenty Thousand Dollars (\$ 20,000.00) or after employment when it becomes apparent that the case, transaction or matter will equal or exceeds Twenty Thousand Dollars (\$ 20,000.00), an agency or official of the executive branch shall obtain the approval of the Attorney General when the total cost, including fees and expenses, of all contracts relating to the same case, transaction, or matter will equal or exceed Twenty Thousand Dollars (\$ 20,000.00). Any amendment, modification, or extension of a contract which, had it been a part of the original contract would have required approval by the Attorney General, shall also require approval by the Attorney General.

E. When an agency or official of the executive branch enters into a contract for professional legal services pursuant to this section, the agency shall also comply with the applicable provisions of *Section 85.41 of Title 74 of the Oklahoma Statutes*.

F. The provisions of this section shall not apply to the Oklahoma Indigent Defense System created pursuant to *Section 1355 et seq. of Title 22 of the Oklahoma Statutes*.

G. The Attorney General shall, on or before February 1 of each year, make a written report on legal representation obtained pursuant to paragraphs 2 and 3 of subsection A of this section. The report shall include a brief description of each contract, the circumstances necessitating each contract, and the amount paid or to be paid under each contract. The report shall be filed with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chair of the Appropriations and Budget Committee of the House of Representatives, and the Chair of the Appropriations Committee of the Senate.

•The Oklahoma Governor considers the Office of Attorney General a state agency, and includes the Attorney General on a comprehensive list of Oklahoma state agencies available at <https://www.ok.gov/portal/agency.php>. Do you agree that the Office of Attorney General is an agency under Oklahoma state law? If not, please explain.

Generally speaking, the Office of Attorney General is a state agency. Whether it is an "agency" for purposes of any particular statute requires an analysis of that statute.

•Subsection G of Title 74 Section 20i of the Oklahoma Statutes requires the Attorney General to report annually on any contracts for legal representation that state agencies have entered into with private attorneys over the course of the prior year. For the avoidance of doubt, no exception is provided under Section 20i for contracts for legal representation entered into by the Attorney General with private attorneys. Do you agree that Subsection G of Title 74 Section 20i required

you, as Attorney General, to report contracts for legal representation that you entered into with private attorneys over the course of the prior year? If not, please explain.

No. The purpose of Section 20i, as demonstrated by its text, is to place the Office of Attorney General in the role of approving contracts for outside counsel that other agencies wish to enter into rather than utilizing the services of the Office of Attorney General. Subsection G requires a report be made of contracts entered into "pursuant to this section," as Subsection A(3) makes clear. Because the Office of Attorney General is not required to seek permission from itself "pursuant to" that section of law, it has no applicable contracts to report pursuant to Subsection G. The Office of Attorney General has, however, routinely disclosed contracts it has entered into with outside counsel, when requests for such contracts are made.

- The last fiscal year in which payments from the Office of Attorney General to private attorneys were recorded in the report submitted pursuant to Subsection G of Title 74 Section 20i of the Oklahoma Statutes was FY 2011. No payments from the Office of Attorney General to private attorneys were recorded in the reports you filed for FY 2012, FY 2013, FY 2014, or FY 2015. As Oklahoma Attorney General, did you enter into any verbal or written contracts with private attorneys for legal representation (whether or not such contracts provided compensation to private attorneys) other than those listed in the reports you submitted for fiscal years 2011 through 2015? Please provide a brief description of each such contract you entered into, the date you entered into the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details of any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).

Yes. Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

- Subsection B of Title 74 Section 20i of the Oklahoma Statutes requires that—when entering into a contract for legal representation by one or more private attorneys—an agency or official of the executive branch must select an attorney or attorneys from a list maintained by the Attorney General. If there are no listed attorneys capable of providing the specific representation, then the agency must obtain the approval of the Attorney General in order to enter into the contract.
- Please describe your process, as Attorney General, for evaluating a request submitted by a state agency to enter into a contract for legal representation by a private attorney not on the approved list. Please provide any documents detailing this process (which you or your staff relied on in making such evaluations) or indicate if this process was undocumented.

- Please provide any documents submitted to you by state agencies requesting approval to enter into a contract for legal representation by a private attorney not on the approved list, as well as your written responses to such requests.
- Please provide any papers documenting decisions made by you or the Office of Attorney General to enter into contracts for legal representation by private attorneys that did not originate with requests submitted to you by state agencies.
- Do you agree that Subsection B of Title 74 Section 20i required you, as Attorney General, to enter into contracts for legal representation only with private attorneys included on the list referred to in that subsection unless there were no listed attorneys capable of providing the specific representation? If not, please explain.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. With regard to your question, because the Office of Attorney General maintains the referenced list, and is authorized to allow representation from attorneys not on the list, the Office of Attorney General plainly has the discretion to allow representation from attorneys not on the list.

Did you—at any time during your term as Attorney General—enter into a written or verbal contract for legal representation (whether compensated or pro bono) by one or more private attorneys not included on the list referenced in Subsection B of Title 74 Section 20i of the Oklahoma Statutes? If so, for each such contract:

- Please provide a brief description of the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).
- Please indicate if you entered into the contract with a private attorney not on the approved list because there were no attorneys on the approved list capable of providing the specific representation or for another reason. Please describe the process you followed in reaching a decision to enter into a contract with a private attorney not on the approved list. Please list the attorneys on the approved list that you considered hiring (and deemed incapable of providing the specific representation) before deciding to enter into a contract with a private attorney not on the approved list. For each attorney on the approved list that you considered and rejected, please describe the deficiencies in their capabilities that led you to reject them in favor of a private attorney not on the approved list.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

•As of January 18, 2017, neither David Rivkin, Jr. (nor any other attorney employed by Baker Hostetler) appeared on the “Approved Attorney List | 20i” accessible on your website at <https://www.oag.ok.gov/litigation/1917atty.nsf/wfindatty.html?OpenView>.

○Did David Rivkin Jr. represent the State of Oklahoma in its Clean Power Plan case against EPA?

○To the best of your knowledge, did David Rivkin Jr. or Baker Hostetler receive any compensation or funds from any third party in conjunction with this or any other litigation in which it represented the State of Oklahoma on your behalf? If so, please provide the names of any such third parties.

○Did you enter into a written or verbal contract for legal representation (whether compensated or pro bono) with David Rivkin, Jr. of the Washington, D.C.-based law firm Baker Hostetler? If so, please provide:

- ☐ a brief description of the contract;
- ☐ the date you entered into the contract;
- ☐ the circumstances necessitating the contract;
- ☐ the deficiencies in the capabilities of attorneys on your approved list that led you to reject them in favor of David Rivkin Jr.—an attorney not on your approved list; and
- ☐ the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).

○Please list any contributions made by David Rivkin Jr. or any employee of Baker Hostetler to you, your campaign, or any organizations or entities for which you engaged in fundraising, along with the dates of such contributions.

Yes. No. Yes. Information relating to the contract can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. A full list of contributors to my campaigns for the state senate and attorney general may be found at the Oklahoma Ethics Commission's websites. For state campaign committees from 2002-2014, please use this site: <https://www.ok.gov/ethics/public/candidate.php>. For 2015 to the present, the Commission uses this site: <http://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=1F26BA5E-71EA-48E4-8D50-C1013E9FE0A7>. Attached is a letter from the Oklahoma Ethics Commission regarding materials prior to 2002.

•During your term as Attorney General, did you ever enter into an arrangement whereby a private attorney or attorneys represented the State of Oklahoma on your behalf on a pro bono basis while being compensated by a third party? If so, please list the legal matters in which you entered into such arrangements, and, for each matter, the third party or parties that compensated the private attorneys, the amounts paid, and any monetary or non-monetary benefits that you may have

obtained in connection with the arrangement. During your term as Attorney General, did you have a process in place for ensuring that any private attorneys that represented the State of Oklahoma on a pro bono basis did not receive compensation from a third party for the legal services they provided to the state? If so, please describe this process.

No. Our Office would not enter into any such agreement for representation if it believed that the attorney was not truly working pro bono, and the Office would seek assurances from the attorney that they were.

8. The Online Lenders Alliance is “a trade group for online payday and short-term lenders and the companies that steer customers to them,” according to a recent Los Angeles Times article describing actions by the Consumer Financial Protection Bureau to protect consumers from misleading advertising claims made by certain members of the payday lending industry.

- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any company making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any principal, senior executive, officer, or director of a company making payday, title, installment, or short-term loans? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Online Lenders Alliance? For your convenience, the members

of the Board of Directors of the Online Lenders Alliance, along with their business affiliations, are listed below. For each of these individuals, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

- Kim Anderson, Strategic Link Consulting
- Samantha Bentson, Cashland Online
- Kirk Chartier, Enova Financial
- Doug Clark, Axxess Financial
- Mark Curry, MacFarlane Group
- John Dalton, LeadFlash
- Steve Hotz, The Lead Group
- Clive Kinross, MoneyKey
- Glenn McKay, Selling Source, LLC.
- Bart Miller, Centrinex
- Greg Rable, FactorTrust, INC.
- Ken Rees, Elevate
- Walt Wojciechowski, MicroBilt

I am not aware of any such solicitations or donations.

•On June 16, 2015, you, as Attorney General, sent a letter to Richard Cordray, Director of the Consumer Financial Protection Bureau (hereinafter, “CFPB”), expressing concerns about certain rules the CFPB proposed to regulate payday, vehicle title, and installment lending.

○Was the text of this letter partially or substantially drafted by the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers?

○Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers participate in the drafting of this letter in any other way? If so, please explain.

○Did you ask the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.

○Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term

loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

9. The Consumer Federation of America is an association of non-profit consumer organizations devoted to advancing the consumer interest through research, advocacy, and education.

- Did you ask the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.
- Did the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

10. As you may know, Oklahoma has one of the highest usage rates for payday loans in the country and allows payday lenders to charge consumers interest rates of up to 390 percent on annual basis for a 14-day term loan. In November 2016, the CFPB reported that consumers in Oklahoma submitted debt collection complaints at a rate of 36 percent (higher than the 27 percent national average). In addition, the CFPB found that average monthly complaints from Oklahomans increased 17 percent from August through October 2015 (higher than the national rate of 13 percent).

- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers? If so, please list the amounts and dates of such donations or solicitations.
- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Consumer Federation of America? If so, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

I am not aware of any such solicitations or donations.

11. You have pursued at least twenty legal actions against the EPA on clean water, clean air and climate change related regulations, including multiple lawsuits that are ongoing. You have additionally criticized the EPA and its scientists on a range of scientific facts and regulations that aim to protect public health.

- Please identify EPA regulations or standards that you do support in their current form.
- In many of your legal actions and activities as Oklahoma AG, you have endorsed positions or signed letters that were drafted by oil and gas industry paid lobbyists. Please identify areas in which your views differ significantly from those of the oil and gas industry?

When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA. As I also testified at the hearing, when it was appropriate to pursue legal actions or settlement negotiations specifically with the oil and natural gas industry I have done so. When considering new regulations on oil and natural gas production and practices, I have joined other co-regulators in Oklahoma advocating those changes.

12. Your Ethics Agreement states that for a one-year period, you “**will** seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party.”

- Why does this language assume that you “will” seek authorizations for all such instances?
- Why is your recusal limited to a one-year period, when in some cases the “particular matters” will not be resolved within that timeframe?
- Will you commit to recusing yourself from participating in all such particular matters, without requesting or receiving a waiver, until the matter is fully resolved? If not, why not?
- These ‘particular matters’ are all litigation in which your Ethics Agreement contemplates you switching from plaintiff in your capacity as Attorney General of Oklahoma (in which you were a principal decision-maker on the part of those litigating against EPA), to defendant as EPA Administrator (in which you would be the principal decision-maker on the response to the lawsuit you filed). Why do

you not believe this creates an unresolvable conflict of interests that makes it impossible for you to properly, lawfully and ethically represent the interests of the EPA, while simultaneously upholding your professional duty to your former client, the State of Oklahoma?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure that I seek authorization before participating in any matter involving specific parties in which I know the State of Oklahoma is a party or represents a party for one year after my resignation as Oklahoma Attorney General. I believe you may be misreading the language in my Ethics Agreement regarding prior authorization. If, during the relevant time period, I would like to consider participating in a particular matter involving specific parties in which I know the State of Oklahoma is a party or represents a party, I will seek advance authorization to do so. With respect to my professional obligations as a member of the bar, I am not permitted to “switch sides” as counsel in any matter in which I participated as a lawyer. The standards that would apply to me as EPA Administrator are different, however, as I will not be representing the EPA as a lawyer if I am confirmed.

13. During the hearing, you refused to unequivocally recuse yourself from litigation that you brought against the EPA, repeatedly stating that you would follow the direction of agency ethics officials’ guidance in this area on a case-by-case basis. Isn’t it true that if you are confirmed, the agency ethics officials that you are referring to will report to you, and this reporting relationship could be perceived to have the potential to influence the guidance they provide you with? In light of this, will you commit to the modification of your Ethics Agreement, using your own discretion and authority to do so and prior to any vote on your confirmation, in order to provide more clarity about your intentions for recusal related to each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. I will abide by the commitment I made in that letter. I am confident in the former staff of the EPA and have no reason to believe they will give me anything other than their best advice on ethics matters. Moreover, not all officials who may consider a request for authorization to participate in a matter will necessarily report to me. Before participating in matters involving specific parties in which I am concerned where there may be a question regarding my impartiality, I would expect, where they deem it appropriate, that EPA ethics officials may consult with ethics experts at OGE before making a recommendation.

14. I am attaching a January 17, 2017 letter from Citizens for Responsibility and Ethics in Washington (CREW) and a January 18, 2017 letter from The Campaign Legal Center (CLC), both sent to the EPA Designated Agency Ethics Official, for the record and for your review. The CREW letter references several factors related to your refusal to unequivocally recuse yourself from participating in any of these matters as EPA Administrator that would cause a reasonable person with knowledge of the relevant facts “to question his [your] impartiality in these matters” and “to question the integrity of the agency’s programs and operations.” The CLC letter states that “the plan described in his [your] ethics agreement is insufficient to avoid actual or apparent conflicts of interest, and would cause members of the public to question his impartiality in the conduct of his [your] duties, contrary to his [your] obligation to “ensure that every citizen can have complete confidence in the integrity of the Federal Government.””

- The CREW letter states that ethics regulations demand your recusal from participating personally and substantially as Administrator in particular matters involving specific parties in which the State of Oklahoma is a party, even if the State of Oklahoma withdraws from the matter. Do you agree to make such a recusal for each such matter, even if the State of Oklahoma withdraws from the matter? If not, why not?
- The CREW letter states that “there would be serious and apparent conflicts leading to reasonable doubts about Mr. Pruitt’s impartiality if he were to participate in these lawsuits as EPA Administrator *at any point* in their lifetime. It is therefore essential that Mr. Pruitt’s recusals last through the full course of each matter.” Do you agree to recuse yourself for the full course of each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?
- The CREW letter states that any waiver request you might make from recusal from any of these matters “should be denied based on consideration of the relevant factors listed under” 5 C.F.R. 2635.502(d). Do you agree not to request a waiver from recusal from any such matter? If not, why don’t you agree with the analysis of the factors listed in the regulations as they apply to your past litigation history against the Agency that CREW described in the letter should result in a denial of the waiver request?

As discussed above, my Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. If confirmed, I will ask relevant federal ethics officials to fully review the issues raised in the CREW letter and, if appropriate, take them into account in determining the proper legal course of action in particular instances.

15. Some of the legal cases that you brought against the agency remain open, and there may be legal decisions that require EPA regulatory action as they are resolved; for example, a court could uphold the EPA regulation and require it to be enforced, or a court could direct such a regulation's revision. Since such regulatory actions would be a direct consequence of the litigation, any conflict of interests associated with your participating in the legal matter should extend to any EPA regulatory or enforcement action taken as a result of court action on the litigation. Do you agree to recuse yourself without waiver and for the entirety of your tenure at the EPA from all such regulatory or enforcement actions that are taken as a result of court action on a specific legal matter from which you were recused? If not, why not?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules.

16. If you are confirmed, you will also have the ability to accomplish through *regulation* as EPA Administrator what you have been seeking to accomplish through *litigation* as Attorney General. For example, instead of waiting for a court to decide whether to grant your lawsuit's request to overturn EPA's smog standard, you could start to write a regulation to do just that on your very first day on the job. Will you commit to recuse yourself from working on the revision or elimination of any *regulation* regarding issues on which you have sued the EPA? If not, why not?

It is my understanding under federal ethics rules that regulatory rulemaking of general applicability does not create a conflict.

17. I am also attaching, for the record and for your review, the Ethics Agreement signed by Carol Browner, former EPA Administrator during the Clinton Administration. In her Ethics Agreement, she agreed to recuse herself from participating "personally and substantially in any EPA matter which involves the State of Florida as a specific party and in which I was personally and substantially involved as Secretary, Department of Environmental Regulations, State of Florida". I note that this agreement was not limited to one year in duration and not subject to waivers. I am also attaching, for the record and for your review, the Obama Administration Ethics Pledge that each nominee agreed to uphold, which states, in part, "I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts." If the response to any part of questions 2, 3 or 4 is no, please

also explain why in light of the stronger Ethics Agreements and pledges made by past EPA Administrators?

I am not familiar with the facts and circumstances surrounding Ms. Browner's Ethics Agreement. In my Ethics Agreement, which was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, I agreed to abide by federal regulations that require my recusal from particular matters involving specific parties in which the State of Oklahoma is a party for a period of one year after my resignation as Attorney General, unless I receive a waiver. I will abide by the commitment in that letter, in addition to any other obligations imposed by the Trump Administration as well as my obligations as a member of the bar.

18. In addition to your participation in specific litigation and regulatory matters that raise conflicts of interests, there may be pending enforcement matters at EPA in which donors to you or your political action committees are the subjects. For example, records indicate that Tyson Foods has been the subject of an EPA Clean Air Act enforcement action³ and reportedly "faces an ongoing criminal investigation by the EPA for its release of toxic pollutants into waterways".⁴ Do you commit to recusing yourself from participation in any enforcement matter in which the subject is an entity that has previously made a donation to you or any of your political action committees? If not, why not?

I will consult with relevant federal ethics officials to determine whether to participate in a particular matter.

19. *Miss. Comm'n on Env'tl. Quality v. EPA*, 790 F.3d 138 (D.C. Cir. 2015) stated that "Decisionmakers violate the Due Process Clause and must be disqualified . . . when they act with an 'unalterably closed mind.'" One of your filings stated that the agency's record "does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas HAPs pose public health hazards." Do you have an "unalterably closed mind" on the question of whether mercury and acid gas HAPs pose public health hazards? If not, please explain your current view on this question.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all

³ <https://www.epa.gov/enforcement/tyson-foods-inc>

⁴ http://www.meatpoultry.com/articles/news_home/Business/2016/08/Tyson_investors_call_for_envir.aspx?ID=%7B4E28BCD7-045D-489C-8A41-48A6DDDBE99F%7D&cck=1

matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

20. Section 301(a) of the Clean Air Act prohibits the Administrator from delegating authority over many regulatory proceedings. To the extent that you are recused from participating in such decisions, who could lawfully make them?

If I am recused from participating in a matter, the Federal Vacancies Reform Act and other federal law provide a mechanism for another EPA official to perform such functions in an acting capacity. Under current policy, the EPA Deputy Administrator would typically serve this function.

21. Each case in which you litigated on behalf of your former client requested that the court compel EPA to take a specific action; for example, one pending suit asks a court to compel EPA to maintain the ozone standard at 75 ppb instead of lowering it to 70 ppb. A court may direct EPA to take specific actions as these cases are resolved, which will require changes to EPA regulations. Moreover, as EPA Administrator, you could simply direct the Agency to amend its regulations to do the very thing your lawsuit asked a court to do in the first place. This also creates an unresolvable conflict of interests.

- Will you recuse yourself, without waiver and for the entirety of your tenure as EPA Administrator, from any agency proceedings that a) directly result from the resolution of or b) are related to the "particular matters" that your Ethics Agreement agrees you should be recused from? If not, why not, and why do you not believe that such agency proceedings would be covered by your recusal under the applicable Standards of Ethical Conduct for Employees of the Executive Branch?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. I understand that this does not extend to regulatory rulemaking of general applicability, which would not create a conflict under applicable rules.

22. Our oceans are essential for life, and much of what happens on land ultimately ends up in our oceans. There are many ways in which our actions on land can both positively and negatively affect marine life and the marine environment. Under the Marine Protection, Research and Sanctuaries Act (MPRSA), the EPA ensures that harmful substances are not dumped into the

marine environment. Additionally, reducing ocean pollution is a global goal in which the U.S. is an active participant.

- In your opinion, what role does the EPA have in protecting our oceans and the marine life within?
- How specifically will the EPA, under your administration, ensure that harmful manmade substances do not end up in our oceans?
- How will the EPA continue to ensure the U.S. is a leader in reducing ocean pollution, and assisting other countries in reducing pollution that makes it into our oceans?

If confirmed, I will carry out the authorities and responsibilities given to EPA by Congress. These include responsibilities under the Marine Protection, Research and Sanctuaries Act.

23. The greenhouse gas effect traps outgoing longwave radiation causing a radiative imbalance of Earth, ultimately leading to the warming of the globe. The fundamental physics of climate change are well settled.

- Are you aware of the theory of radiative balance of the Earth? Can you briefly describe it?
- Do you understand Planck's law and the difference between shortwave vs. longwave radiation, and how that relates to Earth's energy balance?
- Do you agree that disturbances to this equilibrium can warm or cool the Earth?
- Are you aware of the atmospheric circulation and oceanic currents that transport heat from the Equator to the poles?
- Due to the complexity of the climate system, there are lag times between changes in certain conditions, such as the amount of carbon dioxide in the atmosphere, and other observable changes, such as the temperature of the deep ocean. If an action by the United States or world today, could positively or negative benefit the future, say 50 to 100 years down the road, is that an important consideration?
- Are you aware that there is less ice on land in such places as Antarctica and Greenland than in previous years since the Industrial Revolution? What do you believe is causing this decrease in mass of ice on land?
- To where do you believe the water from ice melt on land goes, and do you believe that could cause global sea levels to rise?
- Do you disagree that additional greenhouse gases in Earth's atmosphere, such as carbon dioxide, will cause a smaller magnitude outgoing longwave radiation to escape to space? Please explain.
- Do you disagree that the burning of fossil fuels, such as oil or natural gas, cause carbon dioxide to be released into the atmosphere? Please explain.
- Do you disagree that if fossil fuels were not extracted and burned, less carbon dioxide would be released into the atmosphere? Please explain.
- Therefore, is it possible, if not probable, that humans releasing greenhouse gases into the atmosphere could cause more heat to be trapped by the atmosphere? Please explain.

- Do you understand that the concept address is the previous question is the basis of human-caused climate change? Please explain.
- If not human burning of fossil fuels, how do you explain the observed increase in carbon dioxide in atmosphere?
- What is a safe level of carbon dioxide in the atmosphere? Please provide this number in parts per million. Please explain.
- If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate. I will also adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment consistent with the process and rule of law established by congress. I also believe the Administrator has an important role when it comes to the regulation of carbon dioxide, which I will fulfill consistent with *Massachusetts v. EPA* and the agency's Endangerment Finding on Greenhouse Gases respective of the applicable statutory framework established by Congress. I believe the most effective path towards achieving these objectives is through close partnership with the states granting them regulatory leeway as ascribed by the rule of law.

24. If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

Yes, states are free to pursue regulatory measures to address greenhouse gas emissions under state legal authority.

25.A recently released report by *Solar Power Rocks* gave Oklahoma a grade of "F" and found that the "solar industry has been stymied at every turn."

- The length of return for a 5-kilowatt solar array installation is 16 years in Oklahoma, compared to the just 4 years in Massachusetts. Why do you believe that is the case?
- In 2014, the Oklahoma legislature passed legislation putting a surcharge on rooftop solar. Do you support this? Why or why not?

I am not familiar with "lengths of return" or the potential differences in such lengths of return between states, and thus have no opinion as to the cause

of any such differences. I am not familiar with the legislation you reference, and have formulated no opinion with regard to the wisdom of it as a matter of Oklahoma policy.

26. Last week, in his nomination hearing, Rex Tillerson dismissed the importance of America being energy independent. If you are confirmed as EPA Administrator, you will oversee tailpipe standards for cars and SUVs and the renewable fuel standard, two important policies that support energy independence by reducing oil consumption in America. In your view, should achieving energy independence be a priority for America?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security." Our energy independence will best be achieved by an "all-of-the-above" strategy without the government picking winners and losers. Setting motor vehicle emissions standards is a complex task that requires careful balancing of several competing factors. Setting such standards also requires coordination with NHTSA, which continues to administer the CAFE program. I will consider the relevant factors carefully and will coordinate closely with NHTSA on any motor vehicle emissions standards that will be addressed during my tenure if I am confirmed as Administrator.

27. A cornerstone of science is impartiality and following the facts. This is what has allowed the United States to be a world leader in science.

- Do you commit to allowing EPA scientists to do their jobs and not interfere with their science?
- How will you ensure that scientists, such as those employed by EPA, are allowed to continue their work unimpeded by potential challenges due to their topic of research?
- Do you agree that only scientists and technical experts, not impeded by political influence, should edit scientific work? If not, why?
- In your opinion, what is the role that a public affairs office has in editing any potential publically available statement or information?
- Do you pledge that your all of your work as EPA Administrator will be guided by the best available science?
- Do you commit to maintaining EPA's Scientific Integrity Policy regardless of research area?

If confirmed, it will be a privilege to work with EPA scientists and the thousands of other public servants at EPA. I have no first-hand knowledge of the role of the public affairs office as referenced in the question and, if confirmed, I expect to learn more about the office. Indeed, I fully believe, as former EPA administrators have stated, that sound, objective science must

serve as "the backbone" of EPA actions. I have no first-hand knowledge of the specific scientific integrity policy referenced in the question and, if confirmed, I commit to thoroughly reviewing the policy and to follow applicable laws and federal guidance regarding scientific integrity, information quality, and transparency.

28. It has been reported by *Wired* that President-elect Trump plans to undo President Obama's June 2013 Climate Action Plan, and remove materials from EPA websites. While we understand revising policies from administration to administration, the reports of removing environmental data from EPA websites is troubling. Will you commit to keeping environmental records, data, and records provided as part of previous rulemakings publically available on the EPA's website?

- Will you commit to ensuring that any current publically available dataset remains available and easy to access? If not, please explain.
- Will you ensure that all data interpretation tools available on the EPA website remain publically available and easy to access? If not, please explain.

I have not been briefed on any changes to the EPA website following the transfer of power from the Obama Administration to the Trump Administration. That being said, I commit to reviewing the materials that are included on the EPA site if I am confirmed.

29. I have heard that EPA's Fiscal Year 2018 budget request may include a 17% budget cut. . I am troubled by this reported planned cut to EPA budget and urge you to reconsider this drastic move. Will you maintain robust funding for scientific research at EPA, and to ensure that environmental data continues to be collected?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

30. Hydraulic fracturing (fracking) now provides more than half of the United States oil output. In 2000, fracking provided less than 2% of America oil. This has dramatically changed the energy landscape of the United States.

- Do you believe that hydraulic fracturing (or fracking) is the cause of the increased frequency and strength of earthquakes in Oklahoma? Please explain.
- As Attorney General have you taken any actions related to earthquakes caused by fracking?
- In May 2016, you testified that the decline in the coal industry was due to the price drop of natural gas and not EPA regulation. Do you stand by this statement? If not, why have your views changed?

•Do you believe that fracking can contaminate drinking water supplies? Please explain.

Scientists from the state level up to the National Research Council have found that the act of hydraulic fracturing itself poses very little risk of creating seismic events. Seismicity concerns related to the oil and natural gas industries are more commonly tied to the underground injection of wastewater which is regulated by the Safe Drinking Water Act. As I stated in my testimony, in Oklahoma the Corporation Commission has jurisdiction over this matter and I have been in contact with that agency that has taken very meaningful steps to address seismic concerns. I believe that there is not one single factor that has precipitated the decline in the coal industry alone. Finally, I agree with EPA's Dr. Thomas Burke who, following the release of EPA's final hydraulic fracturing water study, reiterated that the Agency only found a small number of confirmed cases of contamination. With well over one million wells that have been hydraulically fractured in the United States the evidence found by EPA suggests a very low likelihood of drinking water contamination from hydraulic fracturing or its associated activities.

31.This past December, the EPA released a report entitled, "Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States." The EPA found scientific evidence that fracking activities can affect drinking water supplies.

- Have you read this report?
- What steps will you take as Administrator to reduce the possibility of drinking water contamination due to hydraulic fracturing activities?
- Of those chemicals used in hydraulic fracturing activities, the EPA found that nearly 200 might pose a public health risk. Will you commit to continuing to study these identified chemicals and the potential health risks, as well as identify other potential harmful chemicals used in hydraulic fracturing activities?

I am familiar with the report and if confirmed as EPA Administrator I will faithfully execute my legal duties to administer laws as authorized by Congress including the Safe Drinking Water Act. Understanding and studying risks to local communities is something central to the role as Administrator and I will continue to study potential risk using the Agencies many tools.

32.Do you agree the Clean Air Act health benefits significantly outweigh costs? For example, a peer-reviewed study found that in 2010 alone the Clean Air Act Amendments of 1990, which reduced fine particulate pollution and ozone, avoided more than 160,000 premature deaths, 130,000 heart attacks, prevented 13 million missed workdays, and avoided 3.2 million missed school days by children.

Based on the limited information provided, it is unclear as to the specific study referenced. However, as I indicated in my testimony, I am incredibly proud of the progress the U.S. has made to provide public health protections and improve our environmental stewardship while also growing our economy. If confirmed, I commit to continue this progress and protect the American people through commonsense and lawful regulations.

33. According to the Consumer Reports National Research Center survey completed in June 2016, 84 percent of Americans feel that automakers should continue to improve fuel economy for all vehicle types. About three-quarters of survey respondents specifically indicated that the U.S. government should require vehicle manufacturers to improve the fuel economy of their vehicles over time. As you may know, when the government stopped increasing fuel economy standards for two decades in the mid-1980s, vehicle fuel economy stopped improving. Now that we are once again making progress, what will you do to make sure that vehicle fuel economy continues to improve as Americans expect?

While the EPA regulates emissions under the Clean Air Act, it is true that Congress vested authority to regulate fuel economy through the Corporate Average Fuel Economy (CAFE) standards" framework set forth originally in the Energy Policy and Conservation Act. Congress vested responsibility for the CAFE program in the Department of Transportation, not the EPA; accordingly, I take no position on Congress's policy decision on this subject, or on the Department of Transportation's administration of the CAFE program. If confirmed as EPA Administration, I would administer the Clean Air Act in accordance with the terms of the Act, including Congress's statutory policy objectives, and would do so on the basis of the factual record in any given proceeding.

34. After conducting its Midterm Evaluation of fuel economy standards for model years 2022 through 2025, the EPA determined that automakers were well-positioned to meet the standards at lower costs than previously estimated. In fact, the EPA chose to retain the current standards to provide regulatory certainty for the auto industry despite a technical record suggesting that standards could be made more stringent.

Among the technologies that the EPA considered in reaching its determination that fuel economy standards could be readily achieved were so-called "off-cycle technologies." Off-cycle technologies are innovations such as more efficient air conditioning through enhanced window glass that reduces solar load, stop-start systems, solar panels, active aerodynamics, and adaptive cruise control. By reducing the energy demands placed on the engine, these technologies serve to improve fuel economy and reduce tailpipe emissions of carbon pollution. Vehicle manufacturers may claim "off-cycle credits" for these carbon pollution-reducing technologies which may have benefits not adequately captured as part the

standard fuel economy testing procedures.

Americans in Massachusetts, Ohio, Tennessee, North Carolina, Michigan, Indiana and across the country have good-paying jobs that depend on vehicle manufacturers continuing to demand these innovative technologies.

In your hearing, you explained how important it is for the EPA to consider jobs and economic impacts as part of its analysis and decision-making. If confirmed, would you support the "off-cycle credit" mechanism included that the EPA included in its fuel economy standards—a mechanism that drives American innovation and job growth? If not, please explain your position.

If confirmed, my job as Administrator would be to administer the statutes that Congress has enacted, including the statutory objectives that Congress incorporates into those statutes. If Congress chooses to enact legislation to promote certain technologies, such as "off-cycle" vehicle technologies, then those statutory priorities would fall within the EPA Administrator's responsibility. If confirmed, I would look forward to working with Congress on any such statutory proposals that it legislates.

35. Is the carbon dioxide that comes out of car tailpipes physically or chemically different from the carbon dioxide that comes out of power plant smokestacks? If so, how?

As a matter of law, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in *Utility Air Regulatory Group v. EPA* (2013), these two frameworks have significant differences.

36. Would the impact on the climate system of carbon dioxide from power plants be any different from that of carbon dioxide from tailpipe emissions? If so, in what way?

As noted above, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in *Utility Air Regulatory Group v. EPA* (2013), these two frameworks have significant differences.

37. Do you agree that the power sector and the transportation sectors each contribute at least a quarter of U.S. carbon dioxide emissions?

According to the EPA (<https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>), in 2014 electricity generation accounted for 30% of total greenhouse gas emissions (quantified in terms of metric tons of CO2 equivalent), and transportation accounted for 26%.

38. Congress established protections for the air in national parks and wilderness areas in the Clean Air Act amendments of 1977. The quality of the air in New England parks like Cape Cod national seashore and Acadia national park suffers from pollution blown in from elsewhere. Last summer you joined other Attorneys General in comments objecting to the EPA's amendments to the Regional Haze Rule. Given your previous objection, if confirmed as EPA administrator, what will you do to fulfill the 40-year directive from Congress to protect and restore the air quality of national parks like Cape Cod and Acadia even if it requires states from outside the region to reduce their air pollution?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. All legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

39. The 1977 Clean Air Act amendments also provide a role for federal land managers in protecting the air quality of national parks and wilderness areas. If confirmed as EPA Administrator, how will you make sure that EPA honors the obligations federal land managers have under the Clean Air Act and that their expertise is incorporated into the policies necessary to achieve the goal of natural air quality?

I am confirmed, I will exercise my authority consistent with Congress's intent in enacting the Act. This includes acting transparently in a manner that takes into account the views of the federal land managers where the Act calls for their views, such as in assessing visibility impacts from new major sources in the preconstruction permitting process.

40. When Congress passed the original Renewable Fuels Standard (RFS) in 2005, "inadequate domestic supply" and "severe harm" to the economy were the only conditions under which the general waiver authority allowing the EPA to waive the RFS could be invoked. Despite this clear direction from Congress, in its 2014-2015-2016 final Renewable Volume Obligation (RVO), EPA used "available refueling infrastructure" as a condition to waive the standard even though Congress expressly rejected it. Do you believe that EPA's use of this reason for

granting a waiver in the 2014-2015-2016 RVO is consistent with Congressional intent and the law?

As I stated at my hearing, I believe the EPA Administrator should use its waiver authority judiciously and not to undermine or question the commitments made by Congress when enacting the RFS.

41. The Renewable Fuels Standard (RFS) is one of our country's most important tools to reduce carbon pollution from the transportation sector. The 2007 amendments to the RFS included increasing volumes of cellulosic and advanced biofuels. If confirmed, will you increase the blending targets for cellulosic and advanced biofuels, including biodiesel, given Congressional intent? What role can EPA play to facilitate the expansion of cellulosic and advanced biofuels, including biodiesel?

Section 211(0) of the Clean Air Act contains enumerated tables of applicable target volumes of renewable fuel, specifically cellulosic and advanced, for calendar years 2006 through 2022. As I indicated in my nomination hearing, it is not the job of the Administrator of the EPA to do anything other than administer the program according to the intent of Congress. If confirmed, I will work to administer this program in accordance with statute and Congressional intent.

42. In response to an Inspector General report, the EPA announced in August that it would update the estimates of carbon pollution reduction from renewable fuels. If confirmed as Administrator, will you commit to completing this update and using the best available commercial and scientific information, including a recent USDA report on the emissions profile of renewable fuels?

I have not had an opportunity to review the referenced report, but, if confirmed, I will review it.

43. In a response to a Renewable Fuels Standard question, you stated during the hearing that "we have less consumption today." Please provide the annual U.S. consumption of gasoline since 2005 as well as forecasts for 2017 and 2018. Is U.S. consumption of gasoline declining or increasing?

In the course of my nomination hearing, I referenced market conditions that have changed since 2005, when the initial RFS program was enacted. When the program was updated in 2007, Congress could not predict how the

market conditions would further change, from decreased consumption to more fuel-efficient vehicles, and therefore provided the Administrator with the ability to waive certain provisions contained in the Act. As I stated at my hearing, I do not believe the EPA Administrator should use this waiver authority to undermine the commitments made by Congress when enacting the RFS.

44. EPA set out to reduce mercury, arsenic, and other toxic chemicals from coal and oil-fired power plants through a rule that you sued to block. Power plants account for half of the mercury emissions in the United States and EPA's Mercury and Air Toxins Standards rule could save up to 11,000 lives and save \$90 billion on health costs each and every year across the United States.

- The World Health Organization states that mercury has a toxic effect on humans, and in particular poses a significant threat to child development. Do you agree that mercury is a toxic substance and exposure to it should be limited? Please explain.

- Most people are exposed to mercury from eating fish and shellfish. Do you agree that we should take appropriate steps that reduce the amount of mercury in fish and shellfish? Please explain.

As I stated in my testimony before the Committee, mercury is appropriately regulated as a hazardous air pollutant under Section 112 of the Clean Air Act. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

45. Donald Trump recently bemoaned "you're not allowed to use hair spray anymore because it affects the ozone." Hairspray is still available for sale, just without the chemical responsible for the ozone hole.

The ozone hole was first discovered in the mid-1980s. The world quickly came together to address the ozone hole through the Montreal Protocol. Actions were taken prior to confirmation of the hypothesis that chlorofluorocarbons (CFCs) due to human emissions, that chemical Donald Trump alluded to in his statement, to address the ozone hole. The treaties to address the ozone hole were the first universally ratified treaties in the history of the United Nations.

- Do you agree with the overwhelming scientific evidence that CFCs are the cause of the historic depletion of the ozone layer? If not, why not?

- Do you consider the “Montreal Protocol on Substances that Deplete the Ozone Layer” to be a success? If not, why not?
- Considering the success of the world coming together to solve an environmental problem in that instance, do you believe that such a framework could be used as an example to solve other global environmental problems? If not, why not?

I consider the Montreal Protocol to be a successful example of the world coming together to solve an important environmental problem and that the Montreal Protocol could serve as an example to the President as he exercises his foreign affairs powers and to the Senate as it considers ratification of any treaty that may come before it.

46.Mr. Pruitt, you have repeatedly sued EPA to overturn regulations that seek to protect Americans from the effects of soot, ozone, greenhouse gases, mercury, arsenic and other air pollutants. These toxic air pollutants are often blown east from large industrial and energy sources in the Midwest, particularly impacting air quality and public health from Maine and Massachusetts to the Smoky Mountains.

- EPA’s Clean Air Scientific Advisory Committee, which provides independent scientific advice to EPA on its air pollution standards, said that ozone causes a “decrease in lung function, increase in respiratory symptoms, and increase in airway inflammation.” Do you agree with this scientific conclusion? Please explain.

- EPA projected that its final Cross State Air Pollution Rule would avoid up to 34,000 premature deaths, 15,000 non-fatal heart attacks and 400,000 asthma attacks – every year. Do you agree with this conclusion? Please explain.

- The EPA concluded that the health effects associated with fine soot particles include premature death, more ER visits and increased frequency of chronic respiratory disease. Do you agree with this conclusion? Please explain.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

47.Lead is not just a problem in Flint, Michigan, but all over the United States including Oklahoma. In your capacity as Attorney General of Oklahoma, what did you and your office do to prevent childhood lead exposure?

While I am concerned about children’s health, matters of the sort you reference would be handled by Oklahoma's environmental regulators at the

Department of Environmental Quality and the Oklahoma Water Resources Board.

48. During your confirmation hearing before the Environment and Public Works Committee, in response to a question, you indicated that you did not know if there is a safe level of lead. Scientific experts at the Centers for Disease Control and Prevention (CDC) and the World Health Organization, among other leading scientific bodies have repeatedly warned of the dangers of lead, specifically to children, concluding that there is no level of lead exposure that is safe.

- Do you agree that exposure to lead is dangerous and that no level of exposure should be considered safe?
- If confirmed, will you commit to making reducing childhood lead exposure a priority?
- What specific strategies will you implement to reduce lead exposure?
- Will you advocate for more funding for the programs that reduce lead exposure risk, especially in children?

I have not myself reviewed the scientific studies correlating blood lead levels to impacts in children. However, it is my understanding that neither EPA nor CDC have identified a "safe" level of exposure, but instead have adopted levels appropriate for action under their specific statutory authorities. If confirmed I will carry out EPA's authorities to reduce exposure to lead, including exposures by children.

49. The EPA is tasked with implementing the Safe Drinking Water Act (SDWA), and ensuring that the drinking water supply for many Americans is safe. Given the Flint, Michigan drinking water crisis, many Americans that took clean water for granted are now being faced with questions about a basic necessity.

- The Water Infrastructure Improvement for the Nation (WIIN) Act of 2016, or WIIN Act, passed Congress was signed by the President, and became public law on December 12, 2016. Will you commit to, as expedient as practicable, implementing the changes to the Safe Drinking Water Act?
- The human-caused drinking water crisis in Flint, Michigan has highlighted the widespread concern of lead in drinking water pipes across the nation. Additionally, nearly 4 million Americans may be unknowingly drinking unsafe water. Are you aware of how many public water systems in the United States have issues with lead in drinking water above safe levels?
- If a public official knowingly exposes their community to dangerous levels of contaminants, such as lead, should that official be held accountable for such actions? What do you think are acceptable punishments for such an action?
- If confirmed as EPA Administrator, what will you do to ensure that communities across America have safe drinking water that is not contaminated with lead?

If confirmed I will fully implement the changes to the Safe Drinking Water regulatory requirements made by the WIIN Act, including the changes to the notification requirements relating to lead levels in drinking water. If funding is provided, I will also implement the assistance programs authorized in that Act. I also will fully implement the existing authorities under the SDWA, including, as appropriate, EPA's authority to take emergency action. If confirmed I will seek a briefing from EPA staff on the number of public water systems that are not in compliance with the SDWA Lead and Copper Rule. I am unaware of EPA authorities to punish individuals other than to seek the resignation of responsible EPA officials, such as the resignation of the former Regional Administrator of EPA Region 5 who resigned after her failure to act upon information regarding the lead levels in the Flint water system became public.

50.The updated Toxic Substances Control Act (TSCA) requires that EPA evaluate the risks to "potentially exposed or susceptible subpopulations" and take action to protect these subpopulations from all identified risks. Do you commit to follow this statutory requirement?

Yes.

51.As Oklahoma Attorney General, you have consistently advocated for the rights of states in the area of environmental protections. Will you apply the preemption provisions in TSCA in a manner that is consistent with the statute and your pre-stated philosophy when it comes to state leadership on environmental protection matters?

As I stated in my letter to Senators Inhofe and Boxer from April 9, 2016, I believe the Lautenberg Act ensures states have an important voice at the table and I will apply the law as enacted by Congress.

52.The new law greatly increases transparency and provides EPA with an obligation to protect against unjustified claims of confidentiality by industry. Do you commit to uphold the bill's statutory requirements in this area?

As I stated in my letter to Senators Inhofe and Boxer from April 9, 2016, I believe public dissemination of information about chemicals is critical to ensure public health and safety is upheld. In my view the Lautenberg Act struck a common sense balance between protecting confidential business information and informing the public and I intend to apply the law as enacted by Congress.

53. Do you agree that transparency is important to meaningful public participation in EPA's work on chemicals under TSCA? Do you commit to increasing transparency by fully implementing the provisions in the new law to prevent unjustified claims of confidentiality by industry?

As I have previously stated I believe the Lautenberg Act struck an appropriate balance between protecting confidential business information and informing the public and I intend to apply the law as enacted by Congress.

54. One of the reasons Congress was able to agree on a major re-write of TSCA was because of the fundamental agreement we made to clarify the law to ensure that costs could not be considered when EPA decided whether a chemical was safe or what level of a chemical was safe. Costs could only be a factor when deciding what type of regulation to require to meet that safe standard. Do you continue to support this approach? Would you oppose any effort to change this reformed approach to regulation?

If confirmed I intend to faithfully execute all provisions of the Lautenberg Act as enacted by Congress.

55. Nearly three decades ago, President George H. W. Bush attempted unsuccessfully to ban asbestos. Asbestos is banned in 55 countries across the globe and the World Health Organization says, quote, "all forms of asbestos are carcinogenic to humans". More than 30 Americans die each day from diseases like asbestosis and cancer caused by asbestos. Yet, in his 1997 book, *The Art of the Comeback*, President-elect Trump stated, that asbestos is, quote, "100 percent safe, once applied" and that he, quote, "believe[s] that the movement against asbestos was led by the mob." Do you agree with Mr. Trump that asbestos is 100 percent safe once applied or that the movement against asbestos was led by the mob?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

56. In 2015, I released a report entitled, "Failing the Grade: Asbestos in America's Schools."⁵ Asbestos is still found in schools across America, and the true scope of the problem is still hard to ascertain. More than 53 million American children and six million American adults spend large portions of their days in school buildings that may contain dangerous environmental hazards. My report laid out recommendations on how to address the findings of the report.

- Millions of students attend schools that may have asbestos and this is clearly a widespread problem. How would the EPA under your direction, if confirmed, begin to assess the true scope of the problem?
- Will you commit to raising awareness among students, parents, teachers, and other employees about persistent asbestos hazards in school buildings? If not, why not?
- Do you support periodic reporting requirements for schools to report their progress related to the management and abatement of asbestos? If not, why not?
- Do you support additional funding for enforcement actions for schools that do not follow the law and may be exposing children to asbestos? If not, why not?
- Do you support public access to information about where asbestos can be found in products, school buildings, and elsewhere to empower the public to avoid preventable asbestos exposures? If not, why not?
- Do you support providing consumers with access to current information about asbestos-containing products? If not, why not?
- Do you support schools that are known to have asbestos updating their reports of where asbestos is located within a school? If not, why not?
- Do you support states communicating information to the EPA on their progress with implementation of asbestos response plans? If not, why not?
- Do you support continued research and outreach to improve public awareness of the danger of asbestos exposure? If not, why not?

If confirmed I will take the responsibility of protecting human health and the environment very seriously and in accordance with the legal authorities established by Congress. EPA has identified asbestos as a high-priority chemical and is now required to set the scope of review as well as conduct a risk evaluation of the conditions of use of the substance. Without prejudging that review process any conditions of use of asbestos or any other chemical substance that pose an unreasonable risk are required to be addressed under the law and appropriate communication of chemical reviews as well as transparency in the process is an important aspect of the law as passed by Congress. In addition to the Lautenberg Act, in 1986, Congress enacted the Asbestos Hazard Emergency Response Act (AHERA) and then later amended the act in 1990 to modify EPA's school asbestos remediation program. While I have not assessed the appropriateness of periodic reporting requirements, if confirmed I intend to use the authorities granted to the Agency by Congress under TSCA and other statutes to

⁵ <http://www.markey.senate.gov/imo/media/doc/2015-12-Markey-Asbestos-Report-Final.pdf>

assess potential dangers as well as inform and protect the public as appropriate.

57. Last year entitled, "The ABCs of PCBs: A Toxic Threat to America's Schools."⁶ Although Congress and the EPA banned the production and most uses of PCBs in 1979, the toxic chemical is still found in many schools across this country. In addition, my report laid out six recommendations.

- Since up to 30% of students may be exposed to PCBs, this is a widespread problem. How would the EPA under your direction, if confirmed, begin to assess the true scope of the problem?
- PCBs are found within caulk and fluorescent light ballast in American schools. How would you encourage the removal of PCB-containing materials? Since these ballasts are nearing the end of their useful life, EPA has said that it "recommends all PCB-containing FLBs be removed from lighting fixtures". Would you support the promulgation of a regulation under section 6(e) of TSCA that updates EPA's current regulations for PCBs and includes a requirement that all PCB-containing ballast be removed from schools and daycare facilities? If not, why not?
- There are multiple local education agencies and schools that have been seeking the advice and assistance of the EPA in dealing with PCB issues. Will you commit to assisting these agencies and schools and ensuring that the guidance EPA provides across all Regions of EPA is consistently and proactively provided? If not, why not?
- Do you support a requirement that each school that was built or retrofitted between 1950 and 1979 (and therefore may contain PCBs) undergo a survey (to be administered by the local educational agency) in order to determine whether and where PCBs may be located within a school? If not, why not?
- Do you support a requirement for recordkeeping by state and local educational agencies of testing for, response to, and remediation of PCB hazards in schools? If not, why not?
- Do you support the EPA updating its testing guidance to encourage inspections of all schools built or retrofitted between 1950 and 1979, and improve its efforts to proactively and consistently communicate testing guidance to states, local education agencies, and schools with potential PCB hazards? If not, why not?
- Do you support the EPA developing guidance regarding the means by which parents, teachers, and employees should be notified of potential PCB hazards by schools and daycare facilities, including the manner in which such hazards should be described? If not, why not?
- Do you support the development and provision of updated guidance on the proper remediation of PCBs by EPA for schools, daycare facilities and other entities to use? If not, why not?
- Do you support the EPA proactively and regularly sharing best practices and other information outreach to states and school districts, and enforcement

⁶ <https://www.markey.senate.gov/imo/media/doc/2016-10-05-Markey-PCB-Report-ABCsofPCBs.pdf>

activities, related to PCB hazards in schools and daycare facilities across all EPA regions? If not, why not?

- Do you support EPA regional offices increasing their outreach to states and local education agencies to make them aware of available EPA's PCB regulations, guidance and resources? If not, why not?

- Do you support the EPA updating its current guidance on PCB hazards in schools to incorporate lessons learned from previous remediation projects and best available science? If not, why not?

- Do you support schools having detailed plans on how a school specifically plans to ensure the proper removal of PCBs before starting a PCB remediation project? Please explain.

- Do you support the authorization and appropriations of money for the testing for, response to, and remediation of PCB hazards and other environment hazards in schools? Please explain.

Addressing the issues of possible harmful exposures to chemicals in schools is an issue I would take very seriously if confirmed as EPA Administrator. While protecting children from exposure to chemical substances of concern it is important to have all the facts and ensure that an action does not create unintended consequences or put children at potentially greater peril via risk shifting or the possibility of remedial actions resulting in greater exposure to a substance. While I would not prejudge a regulatory outcome under the TSCA or any other law, I will work collaboratively with state and local governments and citizens to address issues and ensuring EPA regions are consistent and performing their legally required duties will be a priority if confirmed.

58.The Environmental Working Group reported that Oklahoma led the nation in pesticide-related illness and deaths between 2000 and 2010 based on data from the Center for Disease Control and Prevention.⁷

- Are you aware that your state, Oklahoma, leads the United States in pesticide-related illness and deaths? Why do you think this is the case?

- Recent reports have suggested that the increased use of pesticides is linked to the rapid decline in the bee population. What is your understanding of the science explaining the cause of the decline in bees in the United States?

I am not personally familiar with the report referenced in this question or generally the rate of pesticide usage in Oklahoma. I am generally aware of the important role bees play as pollinators, but it is unclear from the information provided in the question what specific reports are being discussed. If confirmed as Administrator, I would expect to be briefed by EPA staff before taking action on this issue and would work to ensure EPA

⁷ <http://www.ewg.org/agmag/2016/12/pruitt-s-home-state-leads-nation-pesticide-illnesses-and-deaths>

followed all applicable legal requirements and made its decisions based on sound science.

59. Racial minorities and low-income communities are disproportionately affected by environmental pollution, siting of waste disposal facilities, and other industrial pollution causing activities. In many instances, the combination of poverty and race as well as lax enforcement and oversight of industrial activities results in worsened health outcomes by these communities.

- How will you address environmental justice and equity for minority and poor communities through EPA programs?
- What will you do to improve health equity as administrator of the EPA?
- What are your plans on reducing toxic pollution and disproportional burden of pollutants in communities of color?
- What will you do to increase enforcement and oversight in communities that are bearing the burden of environmental hazards?
- In your confirmation hearing, you committed to making environmental justice a top priority. If confirmed, will you commit to dedicating funding to assist minority and poor communities with resources and technical assistance to better engage with the EPA and industry about pollution activities and concerns occurring in their communities?
- What will you do to improve the EPA's office of Civil Rights to ensure that the EPA is in compliance with the Civil Rights Act of 1964?
- Will you uphold and make a top priority throughout the agency's work, Executive order 12898, which requires federal agencies to make "achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."
- Do you vow to ensure that environmental justice activities throughout the agency remains focused on poor and minority communities?
- EPA recently developed the agency's EJ2020 action Agenda to better deliver on its historical promises of reducing disparities in environmental protection. Will you utilize and uphold this guidance and procedures outlined in this document throughout the work of the agency? Please explain.

As I testified, the Administrator plays an important role regarding environmental justice. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress, including the Civil Rights Act. I am personally unfamiliar with the operations of EPA's Office of Civil Rights and details of current indicatives regarding environmental justice referenced in the question, but I would expect, if confirmed, I would be briefed by staff about ongoing programs and activities before taking any action.

60.If you are confirmed, do you commit not to direct the cessation of or otherwise impede the investigations or actions of the EPA Office of Enforcement and Compliance Assurance? If not, why not?

I am unfamiliar with the specific details of the actions referenced in the question. I would expect to be briefed by staff, in consultation with the Department of Justice as appropriate, before taking any action.

61.For each year since 1995, please provide information regarding the State of Oklahoma's environmental enforcement efforts. Specifically, for each year, please provide a list that includes:

- A brief description of each environmental enforcement action (including investigations and enforcement proceedings) initiated by the AG's office, including the date the action was initiated, the name of the subject of the action, and the nature of the action and environmental violation that led thereto.
- The annual budget of the Office of Environmental Enforcement, both in dollar terms and as a percentage of the AG's annual budget.
- The number of employees in the Office of Environmental Enforcement and in the AG's office writ large.
- A description of each environment enforcement action (including investigations and enforcement proceedings) that was closed, including a description of the resolution of the matter, whether a fine or penalty was levied (and if so the amount of such fine or penalty), whether non-monetary remedies were required (and if so, what), and whether a criminal prosecution was initiated in the matter (and if so what the resolution of the prosecution was).

In order for you to receive a comprehensive response to a voluminous request of that nature, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

Senator Merkley:

1. In an interview with The Oklahoman in 2015, you were talking about Oklahoma's environmental lawsuit against poultry producers who were polluting the Illinois River basin, and you said that in your view, regulation through litigation is the wrong approach. However, you have been highly active in bringing lawsuits against the EPA, whose regulations typically incorporate information gathered as a result of the kind of extensive stakeholder outreach that you seem to value. What have your experiences in suing the EPA taught you about how to lead the agency?

My experiences suing the EPA have taught me the value of ensuring that the EPA acts lawfully so that the regulations it promulgates are actually put to work protecting the environment, rather than being invalidated by courts.

2. The legal actions that you have brought against the EPA suggest that you feel the agency does not have the expertise or skill to make adequate assessments about how to maintain environmental standards. How do you propose to improve the EPA's capabilities so that the agency can achieve its goals in the proper manner?

The legal challenges I have brought have been to protect the interests of Oklahoma. If confirmed, I expect to learn more about EPA's workforce needs and ensure that the Agency is working towards achieving its goals in a proper manner.

3. You have said that the "American people are tired of seeing billions of dollars drained from our economy due to unnecessary EPA regulations". In a poll taken in December 2016 of 2,000 supporters of President-elect Trump, 64% of Trump voters support maintaining or increasing the federal budget for environmental protection and conservation. 78% of the Trump voters said they supported air pollution regulations generally, and 61% said companies should be required to reduce their carbon emissions. These are the people who supported Donald Trump, the man who nominated you for this position. Do you share the view of the majority of Trump voters and support maintaining or increasing the federal budget for environmental protection and conservation? Do you share the view of the majority of the President-elect's supporters that companies should be required to reduce their carbon emissions?

If confirmed as Administrator, I look forward to working with President Trump to achieve his environmental priorities using the tools authorized by Congress and respectful of the rule of law.

4. Several states, including Oregon, Washington, and California, have taken steps to regulate and reduce greenhouse gas emissions. Would you, as the leader of the EPA, attempt to undermine state-led attempts to combat climate change?

I respect and believe the states have a very important role in setting and implementing environmental standards that reflect the needs, challenges and expectations of their local communities. Congress established a clear process by which states may set more stringent standards subject to the approval of the Administrator and based on the specific request made and the corresponding record submitted. If confirmed and if I receive any such requests, I will consider them consistent with applicable statutory framework established by Congress.

5. The EPA produces a wide range of scientific documents. Are you committed to allowing EPA scientists the right of last review of all reports, executive summaries, press releases and websites related to purely science-based documents?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. Scientific documents are critical to EPA's decision-making and I commit, if confirmed, to ensure EPA scientific documents follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

6. Are you committed to transparency at EPA? If so, will you commit to making sure that EPA data is proactively made available to the public, consistent with privacy and confidential business information laws? Will you ensure that all data and data interpretation tools that are currently on EPA websites continue to be publicly available, and, if they become out of date, are archived in an accessible manner?

Yes, I am committed to transparency at EPA. I commit to making sure that EPA data is made available to the public consistent with privacy and confidentiality laws, and I will ensure that all EPA tools currently available to the public will remain accessible to the public and will be archived appropriately.

7. How would you incorporate independent science in your decision making?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. I believe EPA decision-making should be based on sound, independent science, and if confirmed, my decision-making will follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

8. Are you familiar with the scientific integrity policies of the EPA? Can you commit to adhering to EPA's scientific integrity policies?

If confirmed, I expect to learn more about EPA's scientific integrity policies and I commit to follow applicable laws regarding scientific integrity.

9. How will you work with the White House Office of Science and Technology Policy to ensure that the work of scientists at the EPA, and scientists that provide input to the EPA, is free from political and financial influence?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. I have no first-hand knowledge of the EPA's consultation with the White House Office of Science and Technology Policy and, if confirmed, I would expect to learn more about EPA's work with the office. Indeed, EPA actions must be based on sound, objective science. I commit, if confirmed, to follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

10. Pacific coast shellfish aquaculture is estimated to be a \$278 million industry, but over the last decade, oyster growers have struggled to maintain yields because the water in the hatcheries is becoming too acidic for oysters to survive. The oceans are becoming more acidic because they are absorbing more and more CO₂ from the atmosphere. The impact of this acidification on oyster farming has been documented in the scientific literature. On numerous occasions, you've expressed skepticism about climate change, but there is no doubt in the minds of these shellfish growers about the reality that increased CO₂ levels are threatening their livelihoods. As EPA Administrator, how would you address this issue?

If confirmed, I will implement the laws that EPA is charged to administer. Under section 304 of the CWA EPA establishes water quality criteria to protect aquatic life, including shellfish. Certain EPA programs also include authorities that can support projects that may benefit the shellfish industry, including the National Estuary Program under section 320 of the CWA, the Long Island Sound programs under section 119 of the CWA, and the Chesapeake Bay program under section 117 of the CWA. Finally, section 319 of the CWA can support programs and projects to reduce runoff that may impact oyster beds..

11. There are many groups within the Christian community -- and groups from other faiths -- in the United States who agree with the overwhelming scientific consensus that climate change is a danger to our country, and who strongly support taking action to mitigate the causes and impacts of climate change. For example, the Southern Baptist Convention made a statement in 2007 saying that Christians are responsible for caring for creation, and emphasized the importance of acting to prevent climate change. The President of the Southern Baptist Theological Seminary, has also issued a statement echoing these views. As EPA Administrator, would you share the view that, in the interest of caring for creation, that action should be taken to prevent climate change?

I believe we can grow our economy, harvest the resources God has blessed us with, while also being good stewards of the air, land, and water by which we have been favored. If confirmed, I will work to advance the mission of EPA to protect human health and the environment within the framework established by Congress.

12. The EPA is required to follow the best available science in its rule-making process. Given that every major scientific institution in the United States agrees with the position that the warming trend over the past century is due to human activity, do you have any reason to disagree with the position of every major scientific institution in the United States? Please explain.

I agree EPA's rulemaking process must be based on the best available science. However, I have no first-hand knowledge of the specific institutions or findings referenced in the question. If confirmed, I commit EPA's rulemaking process will be based on the best available science and will follow applicable laws and federal guidance on scientific integrity, information, and transparency.

13. 97% of publishing climate scientists support the idea the climate change is real and man-made. You are an attorney, but have questioned the reality of climate change. Do you currently agree that climate change is real and man-made? If not do you believe the 97% of climate scientists that do hold that view are wrong, or lying?

The ability to measure with precision the degree and extent of human activity on our changing climate, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will make sure the agency's regulatory actions are based on the most up to date and objective scientific data.

14. What scientific organizations do you personally trust when it comes to the science of climate change? Please explain why you trust any organization(s) you list.

If confirmed as EPA Administrator, I will adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment and will base my decisions on sound science, including advice provided by agency experts and advisory personnel.

15. Below is a list of statements from the Intergovernmental Panel on Climate Change's Fifth Assessment Report. For each statement, please indicate your agreement or disagreement and explain your reasoning: • "Warming of the climate system is unequivocal."

- "The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, sea level has risen, and the concentrations of greenhouse gases have increased."

- "The atmospheric concentrations of carbon dioxide, methane, and nitrous oxide have increased to levels unprecedented in at least the last 800,000 years."

- "Carbon dioxide concentrations have increased by 40% since pre-industrial times, primarily from fossil fuel emissions and secondarily from net land use change emissions."

- "The ocean has absorbed about 30% of the emitted anthropogenic carbon dioxide, causing ocean acidification."

- "The largest contribution to total radiative forcing is caused by the increase in the atmospheric concentration of CO₂ since 1750."

- "It is extremely likely that human influence has been the dominant cause of the observed warming since the mid-20th century."

- "Continued emissions of greenhouse gases will cause further warming and changes in all components of the climate system."

- "It is very likely that the Arctic sea ice cover will continue to shrink and thin and that Northern Hemisphere spring snow cover will decrease during the 21st century"

as global mean surface temperature rises. Global glacier volume will further decrease.”

- “Global mean sea level will continue to rise during the 21st century.... [T]he rate of sea level rise will very likely exceed that observed during 1971 to 2010 due to increased ocean warming and increased loss of mass from glaciers and ice sheets.”
- “Limiting climate change will require substantial and sustained reductions of greenhouse gas emissions.”

There is a diverse range of views regarding the key drivers of our changing climate among scientists. I believe that these differences should be the subject of robust and open debate free from intimidation. If confirmed, I will continue to encourage an honest debate on our changing climate, the role of human activity, our ability to measure the degree and extent of human activity, and what to do about it. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data. I will also adhere to the applicable statutory authorities to fulfill EPA’s mission to protect human health and the environment consistent with the process and rule of law established by congress.

16. Are you aware that each of the past three decades has been warmer than the one before, and warmer than all the previous decades since record keeping began in the 1880s? This trend is based on actual temperature measurements. Do you believe that there is uncertainty in this warming trend that has been directly measured? If so, please explain.

I am aware of a diverse range of conclusions regarding global temperatures, including that over the past two decades satellite data indicates there has been a leveling off of warming, which some scientists refer to as the "hiatus." I am also aware that the discrepancy between land-based temperature stations and satellite temperature stations can be attributed to expansive urbanization within in our country where artificial substances such as asphalt can interfere with the accuracy of land-based temperature stations and that the agencies charged with keeping the data do not accurately account for this type of interference. I am also aware that 'warmest year ever' claims from NASA and NOAA are based on minimal temperature differences that fall within the margin of error. Finally, I am aware that temperatures have been changing for millions of years that predate the relatively short modern record keeping efforts that began in 1880.

17. Is there a scientific basis, based on the best available science and the weight of scientific evidence, for revoking or revising the finding that greenhouse gases endanger public health and welfare?

To my knowledge, there is nothing currently pending before the EPA that would require I take any additional actions on the Endangerment Finding on Greenhouse Gases and if there were, it would not be wise to prejudge the outcome.

18. Last year, Oklahoma's Department of Environmental Quality added eight lakes to what is now a list of 40 lakes where people should limit their fish consumption due to the dangerous levels of mercury. Do you believe that coal fired power plants contributed to the mercury contamination in those 8 lakes? Do you believe coal fired power plants contribute to mercury contamination in the environment?

I agree with the Oklahoma Department of Environmental Quality's determinations regarding fish advisories. As discussed elsewhere in my written responses to the Committee, coal fired power plants are the largest point source emitters of mercury into the air in the United States. I do not have direct knowledge of whether these fish advisories were caused by coal fired power plants or other sources, and if so whether those sources are located in the United States or elsewhere.

19. Do you agree that fish consumption is a leading source of mercury exposure and that the source of mercury in fish comes largely from the burning of fossil fuels? If you disagree, please explain why, including citations of the authoritative bodies that support your position.

I agree that fish consumption is a leading source of mercury exposure, particularly in certain subpopulations, such as unborn children.

20. Do you agree with the American Academy of Pediatrics' finding on the importance of minimizing mercury exposures for child health? If you disagree, please explain why, including citations of the authoritative bodies that support your position.

I agree with the American Academy of Pediatrics' finding. As I stated in my testimony before the Committee, mercury is appropriately regulated as a hazardous air pollutant under Section 112 of the Clean Air Act. If I am

confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act

21. You are currently representing Oklahoma in challenging the EPA's supplemental finding that it is necessary and appropriate to regulate emissions of mercury and other hazardous air pollutants from power plants. Do you agree that nearly all covered facilities are already in compliance with EPA's Mercury and Air Toxics Standard? If not, explain why not.

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. I do not have personal knowledge of whether any facilities are out of compliance with the Mercury and Air Toxics Standard. If I am confirmed as Administrator, I will exercise my authorities as Administrator to enforce all laws administered and regulations promulgated by the Administrator, including the Mercury and Air Toxics Standard, against sources that are out of compliance.

22. Do you agree that ground-level ozone is a dangerous pollutant that causes respiratory and cardiovascular harm? If no, on what basis do you disagree? If you disagree, please explain why, including citations of the authoritative bodies that support your position.

I agree that ground-level ozone is a dangerous pollutant that can cause respiratory and cardiovascular harm,

23. You are currently pursuing a lawsuit against the EPA over the agency's new ozone limits, which the EPA is required to review at least every five years. The new limit is 70 parts per billion; the previous limit, set in 2008, was 75 parts per billion. Prior to the announcement of the new limit, officials at the Oklahoma Department of Environmental Quality said that the state would be able to meet the 70 ppb level, however you have taken the position that EPA's standard is unachievable, and you have criticized the agency's data collection and its scientific processes. Could you please describe why you feel the EPA is unqualified to assess the safety and necessity of the new ozone levels? Could

you please also describe why your state's Department of Environmental Quality was wrong to say that they could meet the new ozone safety levels?

Oklahoma joined four other states in a petition for review of EPA's 2015 decision to lower the National Ambient Air Quality Standard for ozone from 75 ppb to 70 ppb. The legal question raised by the state petitioners in the case is whether EPA set the standard at a level than can be achieved by states given the background concentrations and uncontrollable sources of ozone in many parts of the country. The briefs filed by the many State petitioners to that rule fully explain the States' position and speak for themselves. The case remains pending before the U.S. Court of Appeals for the District of Columbia Circuit.

24. In a 2013 interview, you said: "The evidence is clear that the current ethanol fuel mandate is unworkable. The decision by the EPA to lower that standard is good news for Oklahoma consumers. It's good the Administration finally recognized the concerns of consumers and a variety of industries and took steps to correct this flawed program." Please explain what you meant by "unworkable" and "flawed program". Do you still hold this view? If not, what caused you to change your view?

As I indicated during my nomination hearing, the Administrator and the EPA routinely missed the statutory targets in publishing the Renewable Volume Obligations each year, creating great uncertainty in the marketplace. In fact, in some years they missed the timeline, as far as submitting those targets, by over a year; in some cases over two years. The EPA failed to adhere to statutory requirements, resulting in a flawed and unworkable program.

25. In December 2015, the President-elect said of Senator Ted Cruz' opposition to the RFS, "...oil pays him a lot of money, he's got to be for oil, right? The oil companies give him a lot of money. So, but I'm with you. I'm with everybody. I'm with everybody. Look, I'm self-funding. I have no oil company. I have no special interest." In contrast, you have received over \$300,000 from the fossil fuel industry, and have sent at least one letter to EPA on your own letter head that was drafted by the oil industry. If you are confirmed as EPA Administrator, will you commit to ensuring that your previous donors will not exert undue influence over the regulatory process and your decision-making at EPA with regard to the Renewable Fuels Standard?

If confirmed, I will work to administer the RFS in accordance with statute and Congressional intent.